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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 2, 2008
1:35 P.M.

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12 SACRAMENTO, CALIFORNIA

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15 WEDNESDAY, APRIL 2, 2008

16 1:35 P.M.

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24 Reported by:

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26 Evelyn J. Mizak
27 Shorthand Reporter
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APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

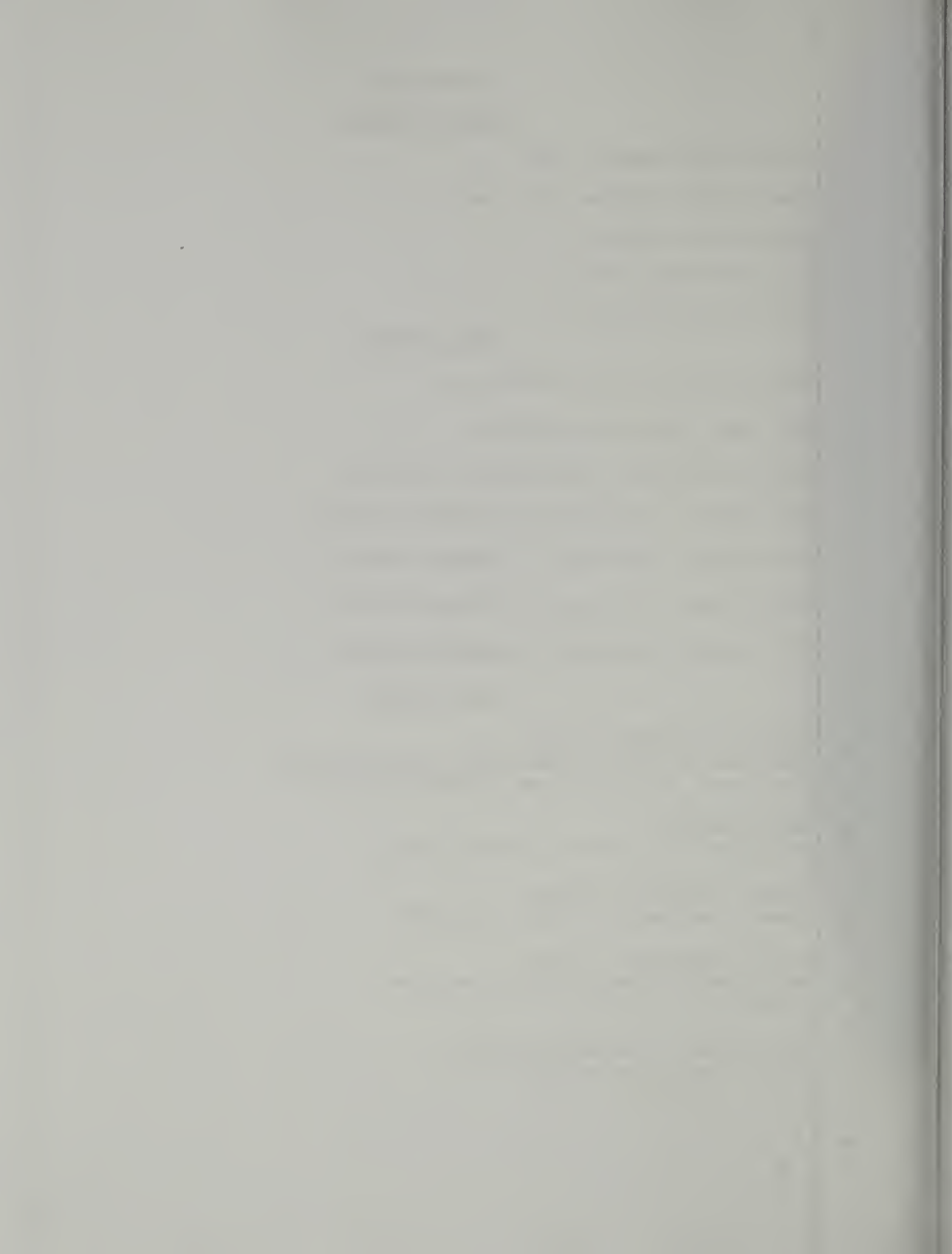
ROBIN J. DEZEMBER, Chief
Division of Correctional Health Care Services
Department of Corrections & Rehabilitation

DAVID WARREN
Taxpayers for Improving Public Safety

JOHN A. WAGNER, Director
State Department of Social Services

PHILIP BROWNING, Director
Department of Public Social Services
County of Los Angeles

CHET HEWITT, President and CEO
Sierra Health Foundation



1 WILLIE R. HAUSEY

Sacramento Food Link

2 California Care Home Operators

3 MIRYAM J. CHOCA, Senior Director

4 Casey Family Programs for California Strategies

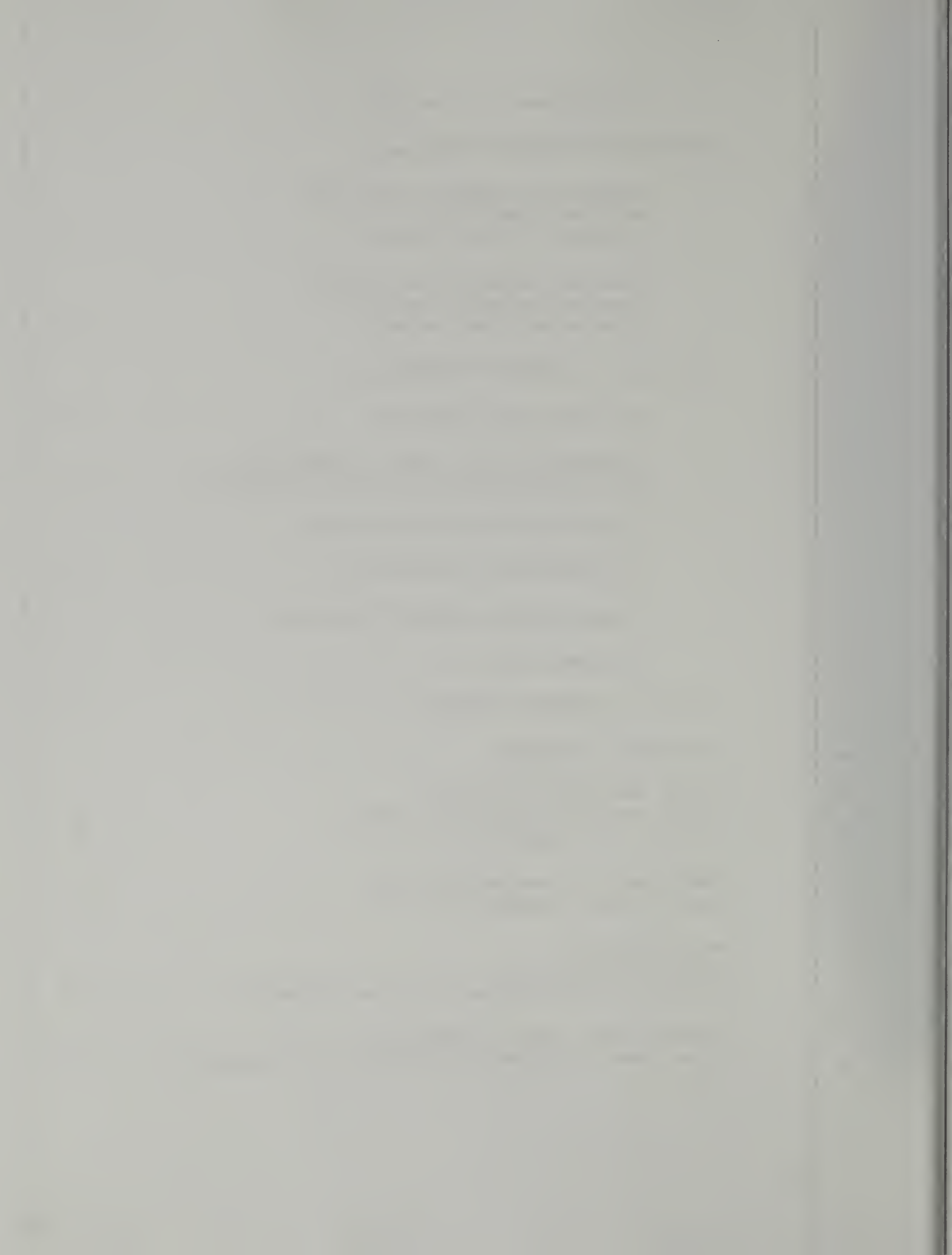


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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: Our first guest is Robin Dezember, Chief, Division of Correctional Health Care Services, Department of Corrections and Rehabilitation. That's a mouthful.

Welcome.

MR. DEZEMBER: Thank you very much.

CHAIRMAN PERATA: Tell us whatever you'd like.

MR. DEZEMBER: All right.

What I would like to do is just do a brief introduction, and then answer any questions that you might have.

CHAIRMAN PERATA: That'd be perfect.

MR. DEZEMBER: I want to first express my thanks for the opportunity to be here. This is -- this is a major challenge, and I believe I am up for it.

I have a lot of experience with government, in government, as well as in and around government, probably over 30 years' worth of experience when you add it all up. I intend to bring that experience to bear onto this job.

I have a degree in health care administration, a master's degree. I have a law degree which I think suits me to the particular tasks of dealing in a situation with multiple federal courts.

I've been asked several times why I came back out of retirement. I was retired. Why did I come back out of retirement?

I should say, I was not on the golf course. I

1 was conducting -- I worked for a private company, but then I was
2 conducting a private consulting firm also for about seven years.

3 Primarily, it's a challenge to finish what at one
4 time I was part of starting many years ago in the Department of
5 Corrections. I was asked by Secretary Tilton if I was -- would
6 be interested in having this job and help bring about a
7 resolution to these matters.

8 I do want to say that I hold Secretary Tilton in
9 high regard. I've known him for many years and was impressed
10 with his willingness to stand up and take charge of a situation
11 that's very difficult.

12 So, in that light, I decided it would be a good
13 thing to do. I'm not yet ready to hang it up and retire as a
14 retired person, so this is a good thing to be, perhaps, my final
15 task in government. And hopefully, I can bring about the change
16 that we're all looking for, I believe, in this environment.

17 CHAIRMAN PERATA: Amen.

18 What's the relationship, or what's your authority
19 within the context of the receiver?

20 MR. DEZEMBER: Well, my authority is at the
21 present somewhat limited. I am responsible for the delivery of
22 mental health services and dental services. The receiver is
23 responsible for medical services. And we have a lot of overlap,
24 so when we deal with areas of overlapping concern, such as
25 nursing and pharmacy and the like, I deal directly with the
26 receiver and his management staff in addressing those
27 concerns. And we've worked out a number of agreements
28 pertaining to that.

1 But my direct authority is limited to mental
2 health and dental right now.

3 CHAIRMAN PERATA: Now do I understand correctly
4 that you don't provide any of the mental health services to
5 parolees?

6 MR. DEZEMBER: We don't, not directly. There is
7 a parole outpatient clinic that does provide some services to
8 parolees that's operated under the Parole Division of the
9 Department, and it always has been since 1954, when it was
10 created.

11 CHAIRMAN PERATA: On the assumption that maybe it
12 hasn't worked all that well consistently since '54, is there a
13 better way of doing that?

14 MR. DEZEMBER: Actually, we're exploring that
15 within the Department now in the Program Section. As you may be
16 aware, there is now an Undersecretary for Adult Programs
17 responsible for developing programs both within the prison and
18 in the reentry centers, of which mental health will be a major
19 part.

20 And we're exploring the transition between the
21 Department and -- for a parolee who leaves a reentry center and
22 takes up their responsibilities within the community, and what
23 kind of transition of services would that require. And with
24 mental health, the parole outpatient clinic would provide part
25 of that for sure. County systems would have to pick up at some
26 point.

27 So, I think -- you know, I don't have a
28 recommendation right now, but we are exploring that. And I do

1 believe we will come up within the Department with a means of
2 making that a little more effective, because we will have a
3 connection then between the release from prison and the
4 acceptance in the community.

5 CHAIRMAN PERATA: A while ago I carried a bill in
6 juvenile justice. And there was a study that came out that said
7 about 70 percent of the kids in the juvenile justice system had
8 manifestations of mental illness. I can't imagine that goes
9 down much as they get into the regular system.

10 And all the emphasis that we are now placing on
11 releasing prisoners either for cause or for economics, it would
12 seem that as long as you have a window of time here where you're
13 not going to be as busy as you would be if the receiver left,
14 I'd encourage you to explore that.

15 I don't think that there's anything more
16 important than trying to improve the mental health delivery
17 system, because if they're just leaving with a 30-day pill
18 package for psychotropics, and then they have to go to the
19 out-clinic and do all this other stuff, I mean, if you've got a
20 mental condition, that's just a mountain you can't climb.

21 So, I wish you well. I hope that you'll spend
22 sometime doing that. Your background seems --

23 MR. DEZEMBER: We definitely intend to do that.

24 CHAIRMAN PERATA: -- to be ideally suited.

25 Thank you.

26 SENATOR PADILLA: A couple other just quick
27 questions, following up on conversations that some of my
28 colleagues have had with your predecessors on some important

1 issues.

2 I wanted to ask what the status might be of
3 providing medical powers of attorney to inmates, and when they
4 might become available for inmates to sign and provide to their
5 family members?

6 MR. DEZEMBER: You know, I'm -- I've talked to
7 people about that very recently. This is an area definitely
8 within the realm of authority of the receiver, to tell you the
9 truth. But I have talked about that recently and begun to
10 explore it, because in other capacities I've had in the past,
11 we've put a lot of energy and emphasis on -- on medical powers
12 of attorney and the consent forms for disclosing medical
13 information to relatives, for example.

14 I know those still exist within the Department.
15 I can't yet tell you what their status is. I've had initial
16 meetings in the last two weeks with the receiver's medical
17 executive, Terry Hill, who is also concerned about that in the
18 Department. And it is an effort that we are undertaking to make
19 sure that those are available.

20 They serve the interests not only of the inmate,
21 but of the medical and custodial staff in the Department.

22 SENATOR PADILLA: And the same question applies
23 for the release of medical information forms?

24 MR. DEZEMBER: Yes, and I'm looking at those in
25 combination, because they should -- they should be in
26 combination. These are serious documents that the inmate would
27 have to execute and would need whatever advice and counsel that
28 they'd want to have on it.

1 So, I'm looking at those two in the same -- so
2 the same answer would apply there.

3 SENATOR PADILLA: So, it's been about nine months
4 since you've been serving in this position.

5 MR. DEZEMBER: Yes, about ten months.

6 SENATOR PADILLA: If I heard you correctly, you
7 said you're just now or just recently having conversations about
8 these forms?

9 MR. DEZEMBER: Yes, primarily because, as I
10 indicated, this is an area which is subsumed by the authority of
11 the receiver in the medical arena.

12 The receiver has responsibility for a very broad
13 range of service in -- in the medical area.

14 SENATOR PADILLA: I understand that the receiver
15 has significant authority in making certain decisions or
16 insisting on certain actions, but the leg work of drafting the
17 form, or compiling whatever forms need to be done, I imagine,
18 still fall on the staff. Is that not correct?

19 MR. DEZEMBER: It does, but his staff is
20 extensive. He has built an extensive staff to operate the
21 medical --

22 SENATOR PADILLA: I'm not saying the receiver's
23 staff. I'm saying Department staff.

24 MR. DEZEMBER: Well, it would primarily be the
25 receiver's staff. He has a full complement of staff. He has --
26 he has lawyers. He has --

27 SENATOR PADILLA: Has the status of the forms
28 been a subject of any of your meetings with the receiver?

1 MR. DEZEMBER: My meetings have been with the
2 receiver's executive staff, not the receiver personally.

3 SENATOR PADILLA: I'll rephrase the question.
4 Has the topic of these forms been the subject of any meetings
5 with the receiver's staff?

6 MR. DEZEMBER: I have had meetings with, as I
7 mentioned, the top executive medical person for the receiver,
8 Dr. Terry Hill, yes, just two weeks ago.

9 SENATOR PADILLA: So, at this point, we don't
10 know what the timeframe might be for these forms to be produced?

11 MR. DEZEMBER: Well, the forms are
12 available. What I'm looking for is how extensively are they
13 available, and how extensively are they being used.

14 SENATOR PADILLA: They are available to inmates?

15 MR. DEZEMBER: Yes. We created these forms many
16 years ago, and all they -- all they require is updating.

17 So, I just don't -- I am not at present aware of
18 the extent to which they are used or assertively made available
19 to the inmates.

20 SENATOR PADILLA: How are other forms that
21 inmates have a right to made available to inmates? Is it just
22 simply upon request?

23 MR. DEZEMBER: Well, often it's on request
24 unless, in the mental health arena for example, we have any --
25 any requirement to secure consent for medication, for example.
26 Those are presented by the clinician directly to the inmate.

27 And I'd like to reiterate that most of my
28 comments of necessity will relate directly to mental health or

1 dental, primarily because the receiver has a superseding
2 authority over medical issues.

3 SENATOR PADILLA: Is there any record keeping on
4 behalf of the receiver or the Department on requests for these
5 forms, length of time or delay between requesting the form and
6 obtaining the form, or not obtaining the form at all?

7 MR. DEZEMBER: I'm not aware of that yet.

8 SENATOR PADILLA: I would really like to follow
9 up with you after today on --

10 MR. DEZEMBER: That would be perfectly all right.

11 SENATOR PADILLA: -- finding out what those
12 timeframes are going to be.

13 MR. DEZEMBER: Certainly.

14 SENATOR PADILLA: Thank you.

15 CHAIRMAN PERATA: Any other questions?

16 SENATOR DUTTON: Along that same line, currently
17 you're having discussions with the receiver or the receiver's
18 executive staff about trying to work with him so that we can
19 eventually merge us into one program again; right?

20 MR. DEZEMBER: Yes.

21 SENATOR DUTTON: What kind of progress are we
22 making along those lines?

23 MR. DEZEMBER: Well, so far it's been
24 conversational primarily because the receiver still is
25 relatively new, and he's undertaking some major changes within
26 the management of information technology development, for
27 example. I know he's appearing before committees of the
28 Legislature. So, the development tasks are -- are

1 staff-oriented at this point. We have a lot more staff-to-staff
2 communication.

3 The receiver has a Director of Support, and we
4 are meeting -- my staff and I are meeting with that individual
5 to make sure that as our organizations evolve -- and I did want
6 to emphasize that over the last nine months, we have created a
7 Health Care Division organization for mental health and dental
8 that didn't exist last year at this time, put it that way.

9 So, in those conversations with -- on the
10 operational level, we are making sure that our organizations
11 don't evolve in a way that tends toward their separation and
12 duplication of efforts. There are some fundamental activities,
13 such as contracting, the information technology development that
14 I mentioned, and others which, by court order, are managed by
15 the receiver, yet they provide a service to the mental health
16 function or the dental function or both. And so, we are very
17 actively involved in that so that you have a unification of that
18 particular effort, so we're not duplicating.

19 And that's what we intend to do along the way.

20 SENATOR DUTTON: Is there any type of timetable
21 or anything as to when your division would be able to take
22 responsibility for the whole program?

23 MR. DEZEMBER: Well, I can only quote the new
24 receiver as saying he thinks four or five years.

25 SENATOR DUTTON: Do you personally have a
26 different kind of timetable that might be more encouraging, that
27 might get done before I'm out of office?

28 MR. DEZEMBER: You know, if I had -- if I had

1 ultimate responsibility and authority, I would have a different
2 timetable. As it is, we not only have myself and the receiver,
3 we also have experts for the Perez Court that are dealing with
4 dental, and we have three federal judges, each of which have
5 fairly extensive staff.

6 So, all of those forces come into play in
7 determining this outcome, and certain amounts of success have to
8 be achieved, I'm sure, before the receiver's going to be making
9 a recommendation to his court.

10 You might note that the -- some of the
11 litigation, the Coleman case, for example, has been underway for
12 13 years. These are complex issues because of the number of
13 people involved.

14 So, I'm not -- I'm not a unified force here. So,
15 I can't make those kind of commitments to you, much as I would
16 like to.

17 CHAIRMAN PERATA: The answer is no. You'll be
18 leaving office before this is fixed.

19 [Laughter.]

20 SENATOR DUTTON: I guess I'll wait for greater
21 discussions concerning this whole situation at a later date.

22 CHAIRMAN PERATA: After November, please.

23 Mr. Cedillo, any questions?

24 SENATOR CEDILLO: No.

25 CHAIRMAN PERATA: Do you have family here, sir?

26 MR. DEZEMBER: I don't. Friends, not family.

27 CHAIRMAN PERATA: Friends are good.

28 There's somebody poised and ready to come up and

1 speak in favor. Come on up.

2 MR. WARREN: Thank you.

3 I know, Mr. Perata, this isn't my role to speak
4 in favor. I often disappoint, but my wife's used to that.

5 I'd like to -- my name is David Warren. I'm here
6 on behalf of Taxpayers for Improving Public Safety. We have
7 endorsed the nominee in a letter to all of the Members.

8 I would like to address one of the topics that
9 was asked in the questions and the answers, because I have
10 information which is to the contrary which I think that the
11 nominee should have and the Committee should be considering.

12 As to the medical power of attorney, that form
13 has been completed. The regulations have been approved, but
14 they have not been circulated among any of the inmates in the
15 state prisons.

16 This resulted from an incident where an inmate
17 was hit in the head with a rubber bullet at a prison in Kern,
18 and the Department of Corrections prepared that medical power of
19 attorney and the regulations.

20 But there isn't an inmate in the State of
21 California that I know of -- and I hear from a lot of them in my
22 capacity as a chaplain -- that knows it, they're aware of it.
23 And when they ask the medical staff for one, the medical staff
24 knows nothing about it. This is something that can be easily
25 remedied.

26 As to the disclosure form for medical
27 information, I personally worked on that for nine years as a
28 member of the statewide Family Council. I have drafts of the

1 proposed regulations, which the nominee reviewed when he was
2 working at the Department of Corrections, and I have the
3 proposed form. All that needs to be done is for the Department
4 to focus on this matter.

5 Before the medical receiver was replaced,
6 Mr. Sillen promised me one member of his staff, two days a week
7 for twelve weeks to complete -- to complete the form.

8 I offered to the Secretary and the Department of
9 Corrections that I'll ramrod the project if he'll assign six
10 people from his office. I'll go to the medical receiver and get
11 two people from there, and in twelve weeks, with two days of
12 meetings a week, we'll have those forms and the regs ready to go
13 for review and to the inmates.

14 This is a major problem for families because,
15 unfortunately, inmates are not -- are sociopaths. And the one
16 way that they get sympathy from their families is, they say,
17 "I'm dying."

18 And the victim of that is a mother, a father, a
19 sister, a husband, a wife, or children. And they don't deserve
20 that.

21 This can be easily remedied and quickly solved if
22 the Department takes the time to focus on it. And I -- I'll
23 even type everything so the Department doesn't have to do that.
24 All I ask is that the people be assigned to work on it.

25 Mr. Perata, one last thing. I want to thank you
26 very much for your efforts last week.

27 SENATOR ASHBURN: We'd have to unionize you,
28 however.

1 [Laughter.]

2 MR. WARREN: I'm already a member of a union, and
3 we answer to a higher authority.

4 [Laughter.]

5 CHAIRMAN PERATA: Hebrew National.

6 [Laughter.]

7 MR. WARREN: I do want to thank you for your
8 efforts on behalf of the foreign nationals in state prison.
9 This morning we were able to schedule a meeting with the Israeli
10 sCounsel General from Los Angeles and San Francisco with
11 Mr. Hoshino and Mr. Franz at the Board of Parole Hearings. We
12 hope to be able to complete this very rapidly.

13 Again, thank you for your time.

14 CHAIRMAN PERATA: Thank you.

15 Anyone else for? Anybody in opposition?

16 SENATOR ASHBURN: How about a motion.

17 CHAIRMAN PERATA: We have motion to approve.

18 Call the roll.

19 SECRETARY WEBB: Cedillo.

20 SENATOR CEDILLO: Aye.

21 SECRETARY WEBB: Cedillo Aye. Dutton.

22 SENATOR DUTTON: Aye.

23 SECRETARY WEBB: Dutton Aye. Padilla.

24 SENATOR PADILLA: Aye.

25 SECRETARY WEBB: Padilla Aye. Ashburn.

26 SENATOR ASHBURN: Aye.

27 SECRETARY WEBB: Ashburn Aye. Perata.

28 CHAIRMAN PERATA: Aye.

1 SECRETARY WEBB: Perata Aye. Five to zero.

2 CHAIRMAN PERATA: Five-zip, congratulations.

3 MR. DEZEMBER: Thank you very much.

4 CHAIRMAN PERATA: Our next appointee is John
5 Wagner, Director of the State Department of Social Services.
6 Welcome.

7 MR. WAGNER: Thank you. Good afternoon.

8 President Perata and Members of the Senate Rules
9 Committee, just a very few remarks as background.

10 My name is John Wagner. I want to thank all of
11 you for allowing me to come before you today to seek
12 confirmation as the Director of the California Department of
13 Social Services.

14 The mission of DSS is to serve, aid and protect
15 vulnerable and needy children and adults in ways that strengthen
16 and preserve families, encourage personal responsibility, and
17 foster independence. How fortunate I feel to be a public
18 servant heading an amazing department with such a significant
19 mission.

20 To be honest, there are few challenges greater
21 than those that face our social services system day-in and
22 day-out in California. And like California, most states'
23 systems are striving to deal with these challenges in a
24 shrinking fiscal environment at the same time that the federal
25 government is facing similar constraints.

26 But like all of you whom I've had the opportunity
27 to meet, we are not here in public service because these
28 challenges don't exist. We're here because they do exist. And

1 we are here to tackle these challenges, and in so doing, make
2 life better for millions of individuals and families who come to
3 social services for our assistance.

4 I can think of no other place I'd rather be.
5 Though probably the largest and most complex, most dynamic and
6 diverse social services system, California's system presents
7 innumerable opportunities to build upon the great work that many
8 of you, many of my predecessors laid down well before my
9 arrival. Our efficacy will be dependent upon strong
10 partnerships, partnerships both within and beyond state
11 government, united in a commitment to those we serve.

12 One recent achievement and example of the
13 importance of these partnerships has been the successful
14 implementation of AB 1331, passed by the Legislature and signed
15 by the Governor in 2007. Because of our efforts and successful
16 negotiations with the Social Security Administration, disabled
17 California foster youths will now be able to apply for federal
18 disability benefits well before they age-out of foster care.
19 Until now, these youths were unable to apply for these benefits
20 until a month before their departure, virtually guaranteeing a
21 gap in benefits. We know all too well the negative outcomes
22 these youth will face without access to such important
23 benefits.

24 This past January, we received notification from
25 the Social Security Administration accepting the position DSS
26 put forward based on a process the Legislature and sponsors like
27 the Burton Foundation proposed, allowing earlier applications
28 for disability assistance. This is a huge victory for our

1 foster youth.

2 Should I be confirmed, I look forward to
3 continuing to build upon these partnerships and working with the
4 Legislature, counties, foundations, and others to ensure that
5 the California Department of Social Services is one of the best
6 social services systems in the country.

7 I thank you for your time today in consideration
8 of my appointment, and I'm happy to answer any questions.

9 CHAIRMAN PERATA: Do you have any family here?

10 MR. WAGNER: No, they're back out east, selling
11 our house.

12 CHAIRMAN PERATA: I admire you. Most people do
13 that after they're confirmed.

14 [Laughter.]

15 MR. WAGNER: Well, it is Friday.

16 CHAIRMAN PERATA: This is an area where I guess
17 Democrats generally, but in particular I have an interest. I
18 was a county supervisor for nine years. That's the working end
19 of the welfare department.

20 MR. WAGNER: Right.

21 CHAIRMAN PERATA: We changed the names. We
22 changed this; we changed that. The fact of the matter is the
23 services have been a constant.

24 I was aghast when the Governor came out with his
25 budget. And I'm going to assume that you either wrote that
26 budget or you approved of it, so I want to talk about it in that
27 kind of a context.

28 Basically, the CalWORKS, child welfare services,

1 foster care, which you touched on, and IHSS, it appears to me
2 that, and it's hard for me to believe, that we would --
3 forgetting the money aspect of it, at least the number -- but if
4 we're going to take 200,000 kids that would lose cash assistance
5 under the Governor's budget, it's very hard for me to understand
6 why anybody would want to do that, number one, and could justify
7 it, number two.

8 I know a lot of what is done is done because of
9 the federal government. And I've always felt that one job of
10 your position, or the position of your counterparts in county
11 government is advocacy. I mean, if you're handcuffed, then what
12 we need to do is to speak out. As an example, the feds don't
13 give a partial credit for hours worked.

14 MR. WAGNER: Correct.

15 CHAIRMAN PERATA: And in a state like California,
16 with the high cost of living, that's just absurd.

17 I was frankly hopeful that when the Governor was
18 elected, he would bring the kind of cache, and I think he does,
19 to go and rally or rail -- I'm open to either side -- in
20 Washington. And a lot of times, I believe that, you know, the
21 Governor wouldn't know this unless professionals were the ones
22 pointing that out.

23 So, advocacy is extremely important. He still
24 has two-and-a-half more years on his term. Who knows what the
25 future's going to hold in terms of whether it's a D or an R in
26 the White House, but the problem's going to be the same,
27 regardless of who's there.

28 So, I want you to think about the advocacy.

1 Other Members will have some specific questions, but I have just
2 an overview.

3 So, we're ripping a bunch of kids. And I would
4 guess that, you know, the guy before you was dealing with mental
5 health in prisons. This is a lock on a job that'll go on
6 forever, because those 200,000 kids are going to be impaired. I
7 said to somebody cynically: You know, if we knock these
8 eleven-year-olds off of welfare, why don't we drop the job
9 requirement at eleven and let them get jobs and they'd carry
10 their own God damn weight?

11 I mean, that's basically what we're saying.

12 I don't want to live in that kind of a state, and
13 I don't think a Lot of other people do, either.

14 There's also strength in numbers. Members of
15 this panel, Members of both the Assembly and the Senate are part
16 of other legislatures throughout the country. And there are
17 your counterparts everywhere else.

18 MR. WAGNER: Right.

19 CHAIRMAN PERATA: I think that teaming up, and
20 maybe this effort has been made and I'm not aware of it, but
21 certainly the problem hasn't gotten any better. And to blame it
22 on -- we can afford to take care of our kids if we have the
23 money. We can't afford it if we don't have the money. Hard to
24 deal with.

25 On the foster care side, this is the breeding
26 ground for criminals. I mean, if we don't take care of these
27 kids, they're the ones that are populating our prisons. You
28 have come to a state that has more people in prison than any

1 other place on the face of the earth. We lost the Soviet Union;
2 we lost South Africa and apartheid; now we're the king. And
3 ain't that a hell of a situation?

4 Now it's true that we are able to go to the
5 ballot and play on people's fears and put more and more people
6 in jail, but the foster care, demonstrably on the statistics
7 available to us, that's the breeding ground. We don't treat
8 them better, we don't treat that system better, we're creating
9 more criminals. Everybody's at risk.

10 And the final thing, when the Governor first got
11 elected, and I first became Pro Tem, he had another big whack
12 taken at IHSS. I never thought he'd do that again, but here we
13 are again with an 18 percent cut for nonmedical domestic.

14 There's been some statements made that there is a
15 determination made that reductions proposed won't imperil
16 people's ability to stay in their homes. I'd like to see the
17 documentation on that. You don't have to do that now.

18 The fact is that, you know, everybody you serve
19 is vulnerable. And we just today did a press conference on a
20 package of bills about autism. One of the things you know about
21 autistic kids, we know two things. One is, it's a run-away
22 disease. Secondly, they live about as long as everybody else.
23 So, they are impaired for their lives.

24 Maybe we're producing more autism today than we
25 ever have before. Who knows? The fact of the matter is, as
26 life goes on, we live longer. As we do damage to the
27 environment, maybe it has something to do with it.

28 Whatever the hell, the safety net has always been

1 social services. Until and unless we can get back to the old
2 days, where everybody's going to bring a casserole over to
3 somebody when they get injured, and cut their lawn for them -- I
4 don't think it's going to happen in a mobile society -- then
5 this is like, you know, as they say in schools, parents in
6 place. We're taking care of our society.

7 So for me, the key thing is leadership. You can
8 direct people to do stuff. You can make sure that they do it.
9 But it's very important for the administration -- and I'm not
10 faulting. I don't like the budget, but again, the Governor
11 wasn't sitting in your office, smoking a cigar with his feet up
12 saying, "Tell me about foster care."

13 But it's important for you in the job that you
14 have to be the advocate for the programs that you provide, and
15 to tell us the truth. Don't tell me that we're going to whack
16 people 18 percent for IHSS, and you're not going to notice it.
17 Bull shit.

18 I'd rather you look me in the eye and say, "This
19 is the best we can do under the circumstances. Here's what we
20 need, and here's what we can afford." But I don't want any
21 rationale.

22 Now, if the Department of Finance did this, they
23 scuttled what you were doing, then that's a different story.
24 You tell me, "I tried, but they put it through the fiscal meat
25 grinder."

26 But this is a job I care about more than anything
27 else I can think of in the administration. I don't care if the
28 DMV person advocates for transparent driver's licenses or more

1 pixels. I don't give a shit.

2 But this I care about a lot. For me, that's the
3 major position.

4 And what I'm going to ask you to do is, there are
5 specific questions Members want to ask, you can just come back
6 to this at the end and we can have a conversation about it.

7 MR. WAGNER: Sure, sure.

8 SENATOR PADILLA: I'd like to hear about it, too.

9 CHAIRMAN PERATA: You want to do it now?

10 MR. WAGNER: Sure.

11 Well, I know you are very committed to the issues
12 of the Department of Social Services, and other Members with
13 whom I've had an opportunity to meet.

14 I agree that leadership and advocacy is part of
15 the function of the Director of the Department of Social
16 Services. On many of these areas, we have pushed the federal
17 government on trying to weigh in and make sure that their
18 interpretation of the Deficit Reduction Act and the
19 Reauthorization of TANF, Temporary Assistance to Needy Families,
20 which is -- basically provides the cash assistance, takes into
21 account many of the factors that impact California we think are
22 important.

23 I was in Alameda County just about a
24 week-and-a-half ago, and there's a significant number of people
25 in the CalWORKS population who are working but not meeting the
26 federal required hours of work, so therefore don't provide us
27 with the -- the count that we need in order to meet the Federal
28 Work Requirements.

1 We have a letter into Secretary Lovett, weighing
2 in on this issue and a concern that this is -- the negative
3 impact that this does have on California and many other states.

4 And we work with national groups like APHSA,
5 American Public Human Services Association, in trying to
6 increase awareness, education on these issues, and make sure
7 people understand what the impact is.

8 So, I acknowledge that advocacy and leadership on
9 this is important. We always work through our DC office in
10 order to educate the delegation.

11 As far as the impact of the budget, you know, I
12 think the Governor was very up-front with saying that these are
13 difficult decisions. And when we -- I went through both budget
14 hearings, and the budget hearings continue. We're not trying to
15 sugarcoat these proposals. These are difficult decisions. We
16 provide the information we have to the Legislature on these,
17 these options, and we'll continue to do so. If there's an area
18 in which you feel you aren't getting the information, I'd be
19 very happy to follow-up and provide that information.

20 But I think you -- you touched on advocacy, on
21 CalWORKS, on other social service issues, like Food Stamps, for
22 example, which I know is very important to California. We've
23 got a lot of area in which we can improve in IHSS.

24 And these are all issues, you know -- I don't
25 know if you want me to deal with any specific one, but I would
26 comment in general that I don't disagree that we need to be
27 advocating for these programs at a national level.

28 CHAIRMAN PERATA: Let me just ask you.

1 This is not to be taken as an ominous comment,
2 but you're ten months into your mission right now. So, what we
3 always evaluate is performance, because what you've done, we
4 assume, will be the predictor of what you'll do, in spite of
5 what they say in the disclaimers on those bond ads.

6 So, what kind of advocacy have you done? What
7 have you done?

8 MR. WAGNER: We have -- we're actually a member
9 of one of the -- APHSA that I mentioned, which is our
10 national --

11 CHAIRMAN PERATA: I apologize.

12 MR. WAGNER: That's okay. It's American Public
13 Human Services Association. It's DC. Every DSS director, and
14 CalWORKS, TANF Director's a member of this.

15 We have been coordinating efforts through APHSA,
16 sending letters to federal officials. I'd be happy to provide
17 your office with comments weighing in on things like the Deficit
18 Reduction Act. I had mentioned that in Alameda County when I
19 was there a week-and-a half ago, one of the big issues was the
20 partial credit for folks who are working but not meeting the
21 magic number of federal hours. We have -- we have a paper trail
22 on that. That was one of the issues in which we weighed in on
23 with our federal officials, arguing that we should be allowed to
24 count those folks.

25 And in a number of issues: Accommodations for
26 disabilities. If someone has a work requirement, and the
27 federal government is telling us you have to comply with ADA, we
28 should be able to accommodate that in the work requirement.

1 So, there's a whole series of issues regarding
2 CalWORKS that we did weigh in, and I'd be happy to share the
3 information that we worked through APHSA and others.

4 CHAIRMAN PERATA: Again, I'm going back to the
5 fact that California is fortunate to have a governor that stands
6 tall among other governors. He can generate attention.

7 I don't think Gray Davis was ever on the cover of
8 Esquire. I might be wrong, but I don't think he was.

9 Now respectfully, I write letters, and usually
10 they are what we'd call perfunctory, unless I want to release
11 them to the press, then they have a purpose.

12 But if I really want to get something done, I'm
13 going to get in their grill myself.

14 Let's assume we agreed that this is something
15 that deserves the Governor's attention. How would you go about
16 calling it to his attention as the reigning expert in the field
17 in California? How would you do that?

18 MR. WAGNER: We do -- the process generally is,
19 first of all, we have our certain amount of due diligence we
20 need to do, and make sure we understand the full impact --

21 CHAIRMAN PERATA: Let's stipulate that you did
22 that.

23 MR. WAGNER: Then we would work with the Agency,
24 Secretary of Health and Human Services office, and educate them
25 on the issue, and the perspective, and the impact it's going to
26 have on California.

27 CHAIRMAN PERATA: Who's that?

28 MR. WAGNER: Secretary Belshe's office.

1 CHAIRMAN PERATA: Everybody around here assumes
2 that Kim is only involved with health care, because that's
3 always the big, visible issue. But she also has you.

4 MR. WAGNER: Right, and she's been very active in
5 child welfare. I'd like to talk a little bit about the
6 California Child Welfare Council on Foster Care, because you
7 raise some foster care issues.

8 CHAIRMAN PERATA: We'll give you a shot, don't
9 worry.

10 MR. WAGNER: Okay.

11 So, we would work with the Agency to make sure
12 that they -- we educate, provide the analysis of the impact on
13 California. And at that point, we would tend to work with not
14 only the Agency but the Governor's Office, and the DC office if
15 it's a federal issue, that we need to either educate members of
16 the delegation, or meet with legislative staff.

17 One example is the Farm Bill that's being
18 discussed at the national level. And we did an analysis of the
19 impact of the Farm Bill on California, and processed that with
20 Agency, with our DC office, which was used actually to provide
21 information to legislative staff in Washington.

22 We also have stakeholder groups. You mentioned
23 CalWORKS. A lot of this is done in conjunction with stakeholder
24 groups here in California so that there's greater awareness.
25 Legislative staff are members of those stakeholder groups. So,
26 we're spreading the information in California at the same time
27 we're pursuing it in Washington.

28 So, those are examples of how we'd go about

1 it.

2 CHAIRMAN PERATA: But actually, after it goes up
3 the food chain to Belshe, that's pretty much all you can do;
4 right?

5 MR. WAGNER: No. The Agency and we, you know,
6 would continue to work with the Governor's Office and his --
7 his person in Washington, DC.

8 CHAIRMAN PERATA: Who's in the Governor's Office?
9 Who is the contact person?

10 MR. WAGNER: A lot of times what we would do is,
11 if it's -- it depends on the issue. It might be Anna
12 Montesantos in the Governor's Office. It might be Dave Lucas in
13 Washington with the federal angle because he's working down in
14 Washington, so --

15 CHAIRMAN PERATA: These are good, competent
16 people?

17 MR. WAGNER: Yes.

18 CHAIRMAN PERATA: Good.

19 Well, somewhere they used to say, "Between the
20 cup and the lip there's been a slip." I don't want to run your
21 department. I'm glad to you do.

22 If you look behind you, it's very interesting.
23 Last week we had this place packed because we were dealing with
24 some woman who was on the Parole Board. And a bunch of law
25 enforcement, law and order types came up here to make sure that
26 she was supported, because that's really important.

27 There was another. We confirmed somebody else,
28 and there were number of lobbyists there, because they

1 represented interest groups.

2 You don't have any of that. You know, you get
3 the Western Law. We know the usual suspects, and most of them
4 are spread so thin.

5 But the fact of the matter is, this is one of the
6 most important things that we could be doing in government, the
7 press, where the hell are they? Maybe they were covering
8 somebody else's bill across the way.

9 That's why it's so damn important for those of
10 us that have blood going through our veins to do this stuff,
11 because there's no advocate out there.

12 So, I won't tell you how to do your job, but I do
13 know a little bit about politics. You can be a bureaucrat, or
14 you can be an administrator, and an administrator leader. You
15 spent enough time in Massachusetts, and I'm assuming you're the
16 latter of the two categories.

17 You've got to make people uncomfortable. I don't
18 think there's a high premium put on this, and I don't think
19 there has been for a lot of years, Republicans or Democrats,
20 because people just didn't care enough to make it play. You
21 know, they go out there and posture on a lot of this other crap,
22 but they won't do this, which is really, you know, this is all
23 bone marrow.

24 So, that's my message to you. You probably could
25 live long life and not had to hear it from me, but I got
26 elected, and I'm saying it. So, that's why.

27 Go ahead.

28 SENATOR PADILLA: Well, I couldn't agree more.

1 And as I heard, Mr. Pro Tem, your questions about what are you
2 doing, what are you doing, the responses I heard was not what
3 I'm doing, but what we are doing.

4 I don't know if that was we, meaning the
5 department, or we meaning myself and the Governor's staff. But
6 I interpreted the question to be meaning what are you doing --

7 MR. WAGNER: Personally.

8 SENATOR PADILLA: -- the individual before us,
9 because we're not voting to confirm or not confirm the
10 department's staff today. We're not voting to confirm or not
11 confirm anybody in the Governor's Office. We're voting to
12 confirm or not confirm you.

13 MR. WAGNER: Sure.

14 SENATOR PADILLA: After today, should you be
15 confirmed, we either have, as the Pro Tem suggested, a
16 bureaucrat in this position or a fighter in this position for
17 issues that we care about.

18 So, let me give you another crack at the apple.

19 MR. WAGNER: Sure. I mean, I'd be happy to
20 respond.

21 First of all, my management style is we, the
22 department, and my executive team. It takes a team of folks.
23 And I don't think any of us can do these jobs alone.

24 Having said that, I'll give you a perfect example
25 of how I've exercised a personal relationship to get something
26 done for the benefit of California.

27 I have personally contacted the Social Security
28 Commissioner, I believe you have a letter of support from him in

1 Washington, on behalf of expeditious implementation of 1331 for
2 foster youth who are disabled in our system, and who we needed
3 to change the federal process for so that they don't age-out and
4 end up homeless in the counties, on the county streets and the
5 municipalities. And I have a series of personal contacts with
6 the Social Security Commissioner directly in Washington in order
7 to get that done.

8 Now, there was a long process. We had many
9 partners there, but I think it's part where the Director can
10 play a significant role, but it's part of a bigger process.
11 This is not a piece of legislation I was able to get done. The
12 partnership exists with many of the folks in the room today,
13 including the Burton Foundation, which supported this.

14 But, you know, when you deal with federal
15 agencies, it's done sometimes to raise the issue and make sure
16 it's getting the attention. It's that kind of personal contact
17 that was exercised and resulted in a policy that works for us in
18 California. And more importantly, works for these kids.

19 SENATOR PADILLA: That's the kind of answer we
20 want to hear.

21 Now, I have an issue area that I'm interested in
22 working on. I'll apologize in advance if it's a little too
23 specific, and technical, and something that your staff is
24 handling.

25 The one time homeless assistance benefit that
26 individuals or families who are either homeless or at risk of
27 being homeless are eligible for, from the homework I've done,
28 part of the eligibility required, there's a cap on a savings

1 account that can be directed at nondiscretionary accounts.

2 Folks who are homeless or at risk of being
3 homeless can have up to \$5,000 in the bank to buy a home or to
4 start a business, but there doesn't seem to be a whole lot of
5 latitude here for folks who are trying to get off the streets
6 and into rental housing. And this \$100 limit that's on the
7 nondiscretionary account, I can't even see how that made sense
8 ten years ago. But even if it did, I certainly don't see how it
9 makes sense today.

10 So, we'd love to work with your office on
11 providing some realistic flexibility for individuals and
12 families who find themselves in that situation.

13 MR. WAGNER: Great. I would welcome the
14 opportunity to follow-up with you on that.

15 SENATOR PADILLA: Thank you.

16 SENATOR ASHBURN: Thank you, Mr. Chairman.

17 I don't think you need to be defensive. I would
18 encourage you not to be so.

19 CHAIRMAN PERATA: Actually, I liked the little
20 spark he showed. That's good.

21 SENATOR ASHBURN: And I've seen the spark before,
22 as we've worked on issues to protect children, to make sure that
23 those that care for children in California are cared for by
24 individuals who have cleared a background check, to make sure
25 that they're safe, and that they don't have criminal
26 backgrounds, and that they've not committed heinous crimes
27 before they start caring for our kids.

28 So, I want to thank you for that, because I

1 consider that to be one of your accomplishments. It may not
2 have been recognized in our conversation here so far.

3 I'm not sure if I have a question for you, so let
4 me just make a statement and then have you respond if you feel.

5 MR. WAGNER: Okay.

6 SENATOR ASHBURN: I mean, I think you're in a
7 very difficult position -- and I think you're doing a very good
8 job -- because the Governor is the Governor, and is the chief
9 executive of our state, and sets the administrative direction.
10 That's the Governor's job. And you're one of his agents to
11 implement the Governor's positions.

12 I don't expect you to criticize a particular
13 element of a budget proposal. If you did, I would question your
14 judgment about that.

15 But let's recognize with respect to the bigger
16 issues that Senator Perata laid out that what we're talking
17 about mostly is a welfare reform that was signed into law by
18 President Clinton. And California went through a contorted
19 process that lasted more than a year to conform our state law.

20 And almost every one of the issues that the
21 President Pro Tem challenged you on were the subject of debate
22 for almost two years around here. And there are huge
23 philosophical differences.

24 And as a nominee and as a director, for you to
25 put yourself in the middle of a philosophical debate I would
26 think would be very unwise.

27 I would argue that one of the most atrocious
28 human rights violations ever committed by a society is the

1 welfare program as we once knew it. You talk about robbing
2 people of their self respect, their self reliance, and their
3 dignity, that's what welfare was all about.

4 And for children in California to grow up in
5 families entrapped in a system designed by government that
6 destroyed the initiative and the ability of adults to take care
7 of themselves, and to then have that be the legacy for their
8 children, is an outrage. And it was the right thing to do ten
9 years ago to correct it.

10 And for you to manage a program that balances the
11 compassion of society and our willingness to give people a
12 helping hand, against the rules of the government, is an
13 untenable job.

14 So, I think you're doing a good job, and I
15 appreciate what you're doing.

16 And if you have any comments about that, I'd
17 appreciate them.

18 MR. WAGNER: Well, first of all, I appreciate
19 your comments. Thank you.

20 And I also think your first point is an area
21 where your leadership and partnership is another example of a
22 partnership where, because of something we've been able to do,
23 kids -- and in this case, kids receiving state subsidized child
24 care -- are in safer placements than they otherwise would have
25 been. So, I think I would like to acknowledge that, and your
26 partnership and leadership on that issue. Thank you.

27 CHAIRMAN PERATA: Gil?

28 SENATOR CEDILLO: I would agree with your

1 comments and distinguish them from the comments of my dear
2 colleague, Senator Ashburn.

3 CHAIRMAN PERATA: Anyone here in favor? Come on
4 up.

5 MR. BROWNING: After listening to this, I'm not
6 sure it's such a good idea for me to come forward.

7 CHAIRMAN PERATA: You've got a delightful accent.
8 Where are you from?

9 MR. BROWNING: Los Angeles, California. I bring
10 you greetings from the Board of Supervisors. I know we have two
11 Senators here.

12 Philip Browning. I'm the Director of the Public
13 Social Service Department. We have about 14,000 employees, 2
14 million customers every day that we serve.

15 CHAIRMAN PERATA: Are you from the southern part
16 of L.A.

17 [Laughter.]

18 MR. BROWNING: The southern part of L.A., yes. I
19 was here a couple years ago, and you asked me that same
20 question.

21 CHAIRMAN PERATA: It's hard to get good material.

22 MR. BROWNING: And I said I was from Southern
23 California. And you said, "Yeah, but you ain't been there
24 long."

25 [Laughter.]

26 CHAIRMAN PERATA: Good memory.

27 MR. BROWNING: I do want to come out in support
28 of Mr. Wagner.

1 I do think this is one of the most difficult jobs
2 in social service in America today. I've worked in a number of
3 states, counties, and the District of Columbia. And I do think
4 this is a unique job with a very difficult challenge.

5 I've only known Mr. Wagner for a couple of
6 months, just since he's been here. I've only been in this job
7 for one year. I was, prior to this, the Director of the
8 Department of Child Support Services for Los Angeles County.

9 But John has been open. He's been accessible.
10 He's been able to be reached on the weekend when we had
11 emergencies where we needed to have information. I could e-mail
12 him. He would return a call. He would return an e-mail.

13 That's not always the case. I've worked for a
14 number of people around the country, and you don't always find
15 someone at his level willing to respond on a weekend, even
16 though that maybe should be the expectation.

17 I do think there are number of things that he and
18 I probably don't agree on, and we can't always agree on
19 everything. And the cuts that are coming down are certainly
20 something that Los Angeles County would not agree with and does
21 not support. But that doesn't mean that I don't support this
22 nomination.

23 I do think it's important to have a person there
24 who will answer questions, who will return phone calls.

25 And I'm not of the belief that any one person can
26 totally change a department. I know with 14,000 staff, I'll
27 never be able to control every individual that works for me.
28 Although frankly, the Board of Supervisors often think I should

1 be able to do that, but that's just not --

2 CHAIRMAN PERATA: That's the wisdom you have when
3 you're a supervisor.

4 [Laughter.]

5 MR. BROWNING: Right, that is.

6 I do think that communication is important. Just
7 like location, location, location is important for the real
8 estate industry, communication, communication, communication,
9 that is so important. The fact that he is willing to
10 communicate makes it much easier for me to do my job.

11 One good example of John's leadership was, a
12 couple of months ago, Zev Yaroslavsky, who some of you probably
13 know is one of our supervisors, had a specific interest in
14 homelessness. So, he and a number of people pulled together a
15 group, a pretty nationally known group, to come to L.A. to do
16 something about that.

17 You know, we have over 78,000 individuals at any
18 one point in time that are homeless in the county. And I know
19 the Senator has a specific interest in that. Our department is
20 working an awful lot in that area.

21 But anyway, John came at a moment's notice to
22 participate in an evening meeting where we had, I think, a very
23 good dialogue to show the interest from his department for this
24 specific issue. I do think that that, to me -- and he stayed
25 the next day, which was even more important. I mean, he could
26 have come just for a fancy meal at one of the nice restaurants,
27 talked to all of the people from around the country and left.
28 But he stayed the next day to work.

1 CHAIRMAN PERATA: We call that photo ops.

2 MR. BROWNING: Well, you know, that could be.
3 Those photo ops are important, but he really didn't.

4 CHAIRMAN PERATA: Are you running for office?

5 [Laughter.]

6 MR. BROWNING: No, no.

7 In specific, though, back to the legislative
8 advocacy, John has included some of our staff from L.A. whom I
9 think are some of the most knowledgeable policy wonks around the
10 country. He's included our staff when he didn't have to, to
11 meet with Congressional staffers and other legislative staff to
12 try to work some of the rules that aren't in our favor, that we
13 really do need to get changed. We're so very close on so many
14 people.

15 I had an e-mail today from one of the CalWORKS
16 work participants. One of the things we've tried to do in our
17 office is to have everyone of us who are in the executive staff
18 actually take on one CalWORKS participant. See them, talk to
19 them, try to get them a job. So far, I haven't been able to get
20 this lady a job, although we've been working on it for about a
21 month-and-a-half. She e-mailed me back and said she was having
22 difficulty, and I'd been out of town for a little while.

23 So, we're trying to ensure that all of our staff
24 know what a problem that is. And so, after the first 25 of us
25 have an experience at that level, we're dropping it down to the
26 next 500 of our managers. I think that's the only way we're
27 going to really raise our CalWORKS rate.

28 We have dropped our Food Stamp rate from 22

1 percent five years ago down to 2.87 percent. That was with some
2 of the help from the state. And the state has been very
3 helpful in the last six months to come down. If there's a
4 problem, they've been able to help us, and not just have a
5 hammer over us.

6 So, from that perspective, I do support John's
7 nomination and will certainly be glad to answer any questions
8 you have, if that is needed.

9 I do thank you for your time.

10 CHAIRMAN PERATA: Certainly worth the flight.
11 Thank you.

12 Yes, sir.

13 MR. HEWITT: Mr. Pro Tem, my name is Chet
14 Hewitt. I am the CEO and President of Sierra Health Foundation,
15 and for six-and-a-half years was the Director for Social
16 Services in Alameda County.

17 I'm here to add my voice to those who would
18 support the nomination of John Wagner.

19 Let me just start. I had some things that I
20 thought I would say here today, but clearly the conversation, a
21 really rich and important conversation, has caused me to rethink
22 what I was initially going to say.

23 Let just say now, in response to those comments,
24 that I, after spending six years as director and having to deal
25 with some very difficult budget times, and seeing some proposals
26 which I do not support, and you recounted those quite clearly,
27 still feel that John's appointment is the something that I can
28 support.

1 When John arrived in California in April of 2007,
2 he sought out some of the folks in counties that are largely
3 urban and struggling with issues around work participation
4 rates, around foster care, around food stamp participation, and
5 agreed to come and visit Alameda County to see what our
6 perspective was, and how he could be helpful.

7 While I left Alameda in August of last year,
8 John still managed get down there and meet with my successor and
9 have the kind of conversations that I think will help his
10 advocacy going forward.

11 I also think for those of you who have been in
12 the world of social welfare for quite sometime, that any
13 individual who could get the Social Security Administration to
14 rethink eligibility, and we know over the past decade how
15 difficult eligibility has been for a number of populations that
16 historically have gotten access to Social Security support, is
17 an enormous achievement.

18 And I hope that John demonstrated here today a
19 little bit of who he really is, because I think when pushed and
20 pressed a little bit, you've seen that he can be quite an
21 advocate if he needs to.

22 While he clearly has the intelligence and the
23 experience for the position to which he is nominated, I am here
24 today not because I agree with every position that John has got
25 to work under, and some of those things I question sometimes
26 whether he fully supports them, but that's for him to say.

27 But what I can say to you is that he has the
28 integrity, the commitment, and the kind of passion you need to

1 work for those who are not as fortunate as many of us sitting in
2 this room today. His commitment to the poor and disadvantaged
3 in the states in which he works, and including the State of
4 California where he works now, I think, bodes well for the
5 future.

6 Senator, you said that sometimes past performance
7 is an indicator of how things will be in the future. And I
8 think if you can twist the arm of Social Security, which just
9 cut off tens of millions of people in this country from
10 eligibility, and create a presumptive eligibility for every
11 child receiving support in foster care in the State of
12 California today, that we can continue and should expect great
13 things from John Wagner.

14 He has my full support, and I urge this Committee
15 to support him as well.

16 CHAIRMAN PERATA: Thank you, sir.

17 MR. HAUSEY: I don't know if I can follow that.

18 My name is Willie Hausey. I represent two
19 organizations, the Emergency Food Services for the State of
20 California and the Department of Social Services that has
21 supported that organization has given me the insight to be here
22 today.

23 When he came aboard, the first thing we had was
24 problems with getting the money from the federal government here
25 to California, and getting it dispersed to the people who needed
26 it. We called him. The next day he was there. He's been
27 there. He's supported us, and I'm here to say we support him.

28 Now, I represent the Society for California Care

1 Home Operators, who maybe many of you know -- we talked about
2 the autistic folks today -- we have had no problem. When the
3 budget items were on the table, we knew the budget was going to
4 be cut, but what we wanted to tell the Director, how that budget
5 should be cut to give us the less impact. He was there to
6 listen. What more can you ask? I don't think much, much more.

7 I sat at this table under the Brown
8 administration and got appointed Chief Deputy. I know what's in
9 that department. It's not an easy one.

10 But with this man here, I think it's going to
11 work out. I'm here for his support.

12 Thank you.

13 CHAIRMAN PERATA: Thank you, sir.

14 Anybody further?

15 MS. CHOCA: President Perata, Senators, my name
16 is Miryam Choca. I am Senior Director for Casey Family Programs
17 for California Strategies. We're an operating foundation that
18 work exclusively for foster care. Since '94, we've spent over
19 100 million on children and families in California, and we spend
20 about 125 million nationally every year just in foster care
21 support.

22 I am really here to let you know how much I
23 appreciate Mr. Wagner, and to put my support behind him. I
24 think the two -- I wanted to speak to creativity and leadership.
25 And it's funny that you mentioned it.

26 When we -- when he first came to California,
27 we're checking with our colleagues. And they said, "Oh, yeah,
28 he's a pretty smart, savvy administrator who knows how to get

1 things done in a bureaucracy," and he's an administrator with a
2 sense of humor, a rare critter.

3 But what most -- and so, we've seen that. Things
4 are working better at the department. There are things that
5 used to take a long time that are now not taking so long.
6 Things are beginning to clean up a little.

7 But in addition to that, the thing that excites
8 me the most has to do with creativity and leadership, with
9 having the department have a real vision, and then pull together
10 behind it to really change outcomes for children and families.
11 And what I've seen is, and my colleagues in philanthropy, that
12 the kinds of responsiveness that the other speakers spoke to, we
13 see a lot in terms of the constituencies that we work with.

14 He's been out in various counties. He's been
15 talking to current and former people in foster care. He's been
16 listening to folks, and he's been really taking all that in and
17 talking with the staff about changing it.

18 I was interested in the we-versus-I issue because
19 clearly, you have to manifest individual leadership. But I think
20 the key note to his -- to his leadership has to do with working
21 in partnership. And really my hope is that not only -- I see
22 him working in partnership across the agencies and with other
23 constituency groups, which is really important because, as you
24 know, children in care have a lot of needs. And we serve them
25 in silos, and that doesn't serve them well nor their families.

26 And I think John is really pushing leadership
27 behind thinking together about how to do job in an integrated
28 way, and how to leverage the resources we have out there.

1 But my hope goes beyond the State of California.
2 I think people don't realize that California is the leader in
3 many ways. Many of the things that we do, the partnerships
4 that we have, and so forth, are unseen any place else in the
5 country.

6 I've often wondered why we don't have, with 19
7 percent of the kids in care, we don't have more impact with the
8 feds. I really have hope that as -- because what John is doing
9 is seeding partnerships that can produce advocacy, so that
10 together we can push an agenda that doesn't disadvantage
11 children and families in California, California counties.

12 So, I really see a lot of steps going in the
13 direction of the kinds of advocacy and leadership that you spoke
14 to, and we offer our full support. And we're delighted we're
15 here.

16 We urge you to confirm. Thank you.

17 CHAIRMAN PERATA: Thank you.

18 Anyone else? Anybody here in opposition? Good.

19 Thanks, everyone who came. It's good to have
20 people that you work with who are willing to come up and give
21 their perspective on it. It's a little hard for you to say what
22 was said.

23 I did like the fact that you got your back up a
24 little. I don't know that you were being defensive, but I liked
25 it. It's nice that you've got a pulse.

26 That's really the kind of stuff. This whole
27 process -- you come in here, you answer some questions, you fill
28 out some questionnaires, and you do the best you can. We do the

1 best we can.

2 But all we can ever hope for is really intuitive.
3 For me, you passed the test.

4 MR. WAGNER: Thank you.

5 CHAIRMAN PERATA: I don't necessarily think that
6 you need to be touting your own achievements, but on some of the
7 areas that we've outlined here, let us know. Drop us a note.

8 A lot of times we're insulated. When we're here,
9 people open the doors. They call us Sir and Madam. And then we
10 leave, and we think we actually matter, or worse yet, that we
11 know something.

12 So, every once in a while just say, "Here's what
13 we did on this issue. I know, Senator Padilla, you were
14 concerned about it."

15 It would be very, very helpful. I don't think
16 it's stepping out of your role at all.

17 The other thing that I'd like to compliment you
18 on was already mentioned, about the Social Security
19 Administration. I do think that when you're from California,
20 and you draw a bead on somebody, and you're dog-headed and
21 relentless, you can make a difference because of who we are.

22 That's a good political skill to have.
23 Obviously, you recognized it and used it. And I'd encourage you
24 to do it more.

25 I wish you well in your coming years, and thank
26 you for being here and for acquitting yourself well. I hope you
27 sell your house.

28 MR. WAGNER: I hope so, too.

1 SENATOR ASHBURN: Motion.

2 CHAIRMAN PERATA: Call the roll, please.

3 SECRETARY WEBB: Cedillo.

4 SENATOR CEDILLO: Aye.

5 SECRETARY WEBB: Cedillo Aye. Dutton.

6 SENATOR DUTTON: Aye.

7 SECRETARY WEBB: Dutton Aye. Padilla.

8 SENATOR PADILLA: Aye.

9 SECRETARY WEBB: Padilla Aye. Ashburn.

10 SENATOR ASHBURN: Aye.

11 SECRETARY WEBB: Ashburn Aye. Perata.

12 CHAIRMAN PERATA: Aye.

13 SECRETARY WEBB: Perata Aye. Five to zero.

14 CHAIRMAN PERATA: Five-zero, congratulations.

15 MR. WAGNER: Thank you.

16 [Thereupon this portion of the
17 Senate Rules Committee hearing
18 was terminated at approximately
19 2:45 P.M.]

20 --ooOoo--

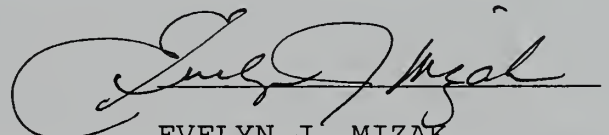
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of April, 2008.


EVELYN J. MIZAK
Shorthand Reporter

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APPENDIX

Senate Confirmation
Robin Dezember
Director, Division of Correctional Health Care Services
Responses to Senate Rules Committee Questions
March 25, 2008

Statement of Goals

Under the California Department of Corrections and Rehabilitation (CDCR), in 2005 health care administrative responsibilities were divided between two executive positions. One was assistant secretary, Office of Health Care Policy, responsible for long-range planning. The other job, director of the Division of Correctional Health Care Services, was set up to oversee the delivery of required health care services to inmates at 33 prisons. The scope of those responsibilities has been reduced in the wake of a federal court's appointment of a health care receiver to oversee medical care. As now constituted, the director's job is to administer the statewide mental health and dental delivery services, both also highly regulated by federal courts. Among other things, the division is supposed to ensure that the department delivers care consistent with constitutional mandates and is in conformance with federal court orders and state laws.

- 1. Please provide us with a brief statement of your goals as director. What do you hope to accomplish during your tenure? How will you measure your success?**

My primary goals when I undertook the management of the Division of Correctional Health Care Services were:

- I. Design and establish an organization for the Division that can pursue effectively on a daily basis the mission for the delivery of health care services in our prison system. This mission is defined by the provision of care that is consistent with the requirements of the constitution and governing law.
- II. Recruit and hire the staff for both headquarters and field operations of the mental health and dental programs that had been authorized by the budget and pursuant to orders of the *Coleman* and *Perez* courts.
- III. Organize for and undertake the major construction programs required for the mental health program by the *Coleman* court through the court approved "long-term bed plan" and for the dental program by the *Perez* court through the dental clinic construction program.
- IV. Establish the Division of Correctional Health Care Services (DCHCS) as a cooperative and coordinated venture with the Federal Receiver toward the unification of health care services: mental health, dental, medical and nursing.

These were my initial goals moving toward what I hope to accomplish during my tenure, which I describe as the realization of a sustainable mental health/dental administrative and clinical organization that is reunited with a similarly sustainable medical administrative and clinical organization that delivers all prison health care services in a

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manner consistent with the underlying mission stated above, under a single organization. While these initial goals remain and can be stated as continuing goals, in the last ten months much progress has been made in fulfilling them.

Methods for measuring success in the fundamentals with which I am presently working are not difficult, since they are built into the fabric of daily activity. I will be successful if the construction programs that I have described here are underway and are proceeding as they are designed to be, notwithstanding that their ultimate completion is years in the future. I will be successful if we maintain continuing relationships with the representatives of the three primary courts (*Coleman, Perez and Plata*) that allow us to plan and point jointly toward the conclusion of these cases and the exit of the Department from this litigation – again notwithstanding that such exists may be years in the future. My vision for health care services includes an operation that is not overseen by federal courts and its integrity is such that outside challenges are eliminated.

Goal I – Organization: When I arrived on June 4, 2007 there was an outdated and inadequate organizational structure for headquarters, and at that time I approximated the vacancy rate for positions at about 80 percent. At the present time, we have a revised, effective and complete organizational structure, all primary managers have been hired and progress continues on bringing in qualified staff to fill the rest of the positions. (A headquarters organization chart is attached for reference.)

We have now begun to reach out to the field organizations to: (1) bolster mental health compliance; (2) complete the dental program “rollout” and; (3) establish functional connections between headquarters and field operations. As this progress continues, and managers become fully grounded in their responsibilities, I am confident that we will have achieved a sustainable organization at least by the end of 2008.

Goal II – Hiring: Hiring of headquarters staff is outlined above. Hiring in field operations is a bigger task since a major infusion of authorized positions occurred in January 2007, increasing the numbers of vacancies for psychiatrist, psychologists, social workers, dentists and others. Salaries also were increased in the current budget, and these now competitive salaries have provided clear incentives for employment. We also initiated a special recruitment and hiring program in August 2007 that provides specific focus on recruitment and prompt hiring of qualified applicants. The information from this new program documents reductions in vacancy rates for some clinical positions:

		Auth per 7A	Oct Filled	Oct Vacant	Oct Vac %	Nov Filled	Nov Vacant	Nov Vac %	Dec Filled	Dec Vacant	Dec Vac %	Oct – Dec % Change
Psychiatrist		282.0	133.8	148.2	52.6%	150.5	131.5	46.6%	152.8	129.2	45.8%	6.7%
Psychologist		928.4	586.6	341.8	36.8%	664.6	263.8	28.4%	678.3	250.1	26.9%	9.9%
Dentist		347.5	253.0	94.5	27.2%	279.3	68.2	19.6%	294.3	53.2	15.3%	11.9%
Social Worker		230.5	151.1	79.4	34.4%	183.1	47.4	20.6%	185.1	45.4	19.7%	14.8%

The same recruitment and hiring program is applied to both the mental health and dental programs. Although vacancies among psychiatrists remain high at about 46 percent and psychologists at about 27 percent, the success of this program can be seen through the trending of the vacancies downward.

We also have initiated a program to expand the number of available licensed mental health therapists that will increase our pool of potential candidates. Although vacancies among psychiatrists remain an issue, I expect continued work in this area to produce a continuing decline in clinical vacancies.

Goal III – Construction: We began in July-August 2007 to coordinate with the Receiver in the planning process for the construction of court-approved mental health facilities (the mental health “long-term bed plan”) that is continuing now with the beginning of design and site selection for a joint program of medical-mental health buildings. This coordination is essential for two reasons: (1) medical and mental health treatment overlap in the areas of nursing, pharmacy, laboratory, health records, etc.; and (2) keeping a mind toward a single health care Division argues strongly for the efficiency and effectiveness of combined health facilities.

The facilities required for new dental clinics is in the design process and is intended to progress through a gradual “rollout” until sufficient clinic space and equipment are available to meet the requirements of the *Perez Stipulated Settlement Agreement*.

Part of our new headquarters organization is a Facility Development unit that is responsible for coordinating all program requirements with the design and construction process to assure appropriate continuity with mental health and dental requirements. This unit represents DCHCS with both the Receiver’s construction program and the CDCR Division of Facility Planning, Construction and Management so that we have active involvement in producing any health care facility.

Goal IV – Connections with Receiver: While I was able to establish a cooperative working relationship with Mr. Sillen when he was the Receiver, he was unwilling to discuss the potential for a unified, single health care organization at any point in the future. Nevertheless, there were major elements of such an organization that would be necessary that were managed by Mr. Hagar, the Receiver’s Chief of Staff, about which we actively cooperated, such as the facility program, the establishment of a governance structure, and the day-to-day workings of the administrative functions of our (currently) two organizations. As I was developing the Division headquarters organization at this time, I was able to consider and include this work with Mr. Hagar in preparing for the inevitable future and so some major steps have been taken in this regard. These include regular communication and joint management of Regional Health Care Administrators and Institution Health Care Managers and cooperative involvement in pharmacy, credentialing, contracting, telemedicine and information technology development. In addition, primary managers for the Receiver and I and my managers

have established good day-to-day working relationships that represented not only cooperation but consideration of common objectives. Some of these are reflected in the "coordination orders" issued by the respective judges in the health care cases. The subjects of the coordination orders are as follows: (1) Contracts – the Receiver assumed direct oversight for the contracting functions; (2) Credentialing and Privileging; (3) Information Technology (IT) – the Receiver will assume responsibility for implementation of a long term IT program to create electronic medical records and include mental health and dental clinical data needs; (4) Pharmacy – the Receiver through Maxor will assume oversight of pharmacy operations; (5) Construction – the Receiver is the project lead for San Quentin Medical Center, additional temporary and permanent clinical, office, supply and record space at CDCR institutions and the addition of approximately 5,000 CDCR medical beds and approximately 5,000 CDCR mental health beds and; (6) Coordination of remedies. These example areas of joint operation are now beginning to expand with Mr. Kelso as Receiver so that we have initiated staff-to-staff communication and coordination that is necessary to inform and direct a complete health care delivery system.

Using information technology development as an example, my managers and I have been active members of the Health Information Technology Executive Committee that the Receiver formed last year and through that participation have been involved in assuring the inclusion of mental health and dental information requirements in plan for a system-wide automated information technology process

With Mr. Kelso's appointment, the level of collaboration overall has increased. In my opinion, notwithstanding the independent authority of the Receiver, we have begun the development of the single correctional health care entity that will result at the conclusion of the Receivership. Mr. Kelso has expressed his support for this development, and he is more than willing to discuss its ramifications and the steps required to accomplish it, albeit in perhaps "four years." This is a beginning and much is left to complete before it becomes a reality.

Overall, I believe progress in the areas of my primary goals can be demonstrated clearly, and I hasten to add that I am not alone responsible for it all. Once I began to acquire key managers, they also took up the task and I can say that we now have one of the best organizations of government that I have seen in my many years in and around state agencies. We are beginning with the fundamentals: organization, staffing, coordinated management and directing our attention primarily to those major tasks that will lead to an exit from court oversight and management. These tasks are facilities sufficient to provide health care services, staff capable and trained in its provision, management that is responsive to the challenges we face, and achieving compliance with governing policy.

2. *You have more than 15 years of experience working in corrections. Please describe your past responsibilities in correctional health care, including mental health, and how those prepared you for your current position.*

My work in Corrections includes responsible positions in a number of assignments that all relate in some manner to the provision of health care in prisons, inasmuch as so much of this work is related to how the prisons function. As Chief Representative and then Executive Office for the Adult Authority and the Board of Prison Terms (called the "parole boards" in those days, 30 years ago) I worked inside the prisons on matters of inmate conduct in compliance with requirements for parole that provided thorough information on the language and functioning of prison operations. As Undersecretary of the Youth and Adult Correctional Agency under Governor Deukmejian, I was a primary developer and implementer of correctional policy governing the operation of the Department of Corrections, which included establishing and chairing the initial organization necessary to build needed prisons. I went on from that post into the private sector where I managed major public sector facility design and construction projects for both county and state governments.

In respect particularly to the correctional health care facility development, my former experience of more than a decade serves me well now as we undertake the construction of mental health and dental facilities for California prisoners.

In the early 1990's, I was a principal part of the establishment of the precursor of the current DCHCS with responsibilities that included the development of a health care policy structure for the then Health Care Services Division (HCSD). I later became Deputy Director in charge of the Division. I also obtained a Master's degree in Health Administration that helped prepare me for the tasks at hand. This experience is instrumental in my ability to manage DCHCS. Moreover, as I was absent from this direct responsibility from 1997 to the present, I can also benefit from reviewing the problems that arose during that period.

In my position of Deputy Director for HCSD, I was responsible for developing the Department's relationship with Special Master Keating and Deputy Special Master Lopes in the initial phases of compliance with the orders of the *Coleman* court. We had a plan then that was to have achieved an exit in that case within approximately two years!

I also served as Chief Deputy Director for Finance Policy for the California Department of Finance under Governor Wilson, which provided me with an inside and high-level view of the necessities of state finance as well as policy-level budgeting. Serving also as Chairman of the Public Works Board added to my knowledge of the capital outlay process which pertains now to current planned health care facilities.

Additionally, as a sole proprietor consultant to government agencies, I worked on behalf of the Department of Corrections reviewing selected health care concerns and provided a series of recommendations. I also assisted the Department in organizing and implementing an exit strategy for the *Coleman* case that came close in 2005 to achieving that goal.

Finally, as Principal Consultant to the Corrections Independent Review Panel, I assisted in conducting a complete review of the Departments of the Youth and Adult Correctional Agency and preparing a final report with recommendations for reform ("Deukmejian Report"). My contribution was in organizing the work products and providing my views of the various elements of the Departments through the spectrum of my experience. It was, however, an opportunity to see the operation as a whole in a brief four months period that permitted a better understanding of its interrelated aspects.

The combination of this experience has prepared me for my current position.

- 3. *In his January 23, 2008, order naming a new receiver, Judge Henderson noted that one goal of the receiver must be to create "a system that must ultimately be transitioned back to the State of California's control." How are you working with the receiver to ensure that transition takes place as early as possible?***

I believe I have addressed this question above in my response regarding progress on goals. I would add, however, that the matter of achieving a transition from the court to the State is a function of structure and relationship. Both the Receiver and I are designing organizational structures that are interrelated and collaborative, and especially with the appointment of Mr. Kelso as Receiver, our relationship indicates that this transition will occur as soon as feasible. The relationships are building and the structure is underway.

- 4. *How should the Senate evaluate your current performance?***

Evaluation of present performance in the highly dynamic environment in which we find ourselves seems to me to require an inquiry into the progress and status of matters still pending. Success is measured in steps that incrementally move toward an objective that, in this situation, will take additional time. This inquiry might include obtaining the views of the major players involved such as the representatives of the three courts that manage/oversee health care in corrections. In addition, reviewing the current organizational structure, the primary managers hired since June 2007, and the information on recruitment and hiring can provide a picture of activity over the past ten months that indicates movement toward the goals identified above. Also, by talking with me during the upcoming confirmation hearing the committee members can make their own assessment of the current situation and determine if it is better than it was before I arrived and whether they believe it will continue to get better. I always look to the

ultimate goal, relieving the three courts of their present job in respect to correctional health care. The achievement of that goal is success, and I'm afraid, is some time off in the future.

Relationship to Federal Courts

In 2006 U.S. District Court Judge Thelton Henderson named Robert Sillen to directly operate and oversee improvements in prison medical services in the federal court case known as Plata v. Schwarzenegger. On January 23, 2008, Judge Henderson named Clark Kelso, professor of law at the McGeorge School of Law, as the new prison health care receiver, effective immediately.

Mental health services fall under a separate federal class action, known as Coleman v. Schwarzenegger. U.S. District Court Judge Lawrence Karlton named J. Michael Keating as the special master to oversee improvements in mental health care. Another case, known as Perez v. Tilton, focuses on the need to improve dental care and is overseen by U.S. District Court Judge Jeffrey White. To avoid duplication the judges directed representatives of all three cases to coordinate their remedial activities at formal monthly meetings. The participants have also agreed to have the receiver manage areas the cases have in common, such as information technology. The ongoing cost of care as a result of these cases is more than \$1 billion a year.

5. *Please clarify your relationship with representatives of these federal court cases, especially the medical receiver's office. In the wake of Mr. Kelso's appointment, do you anticipate any changes in that relationship?*

I am a named Defendant in all three of the health care cases mentioned in the question. Two of the cases are subject to stipulated settlement agreements (*Plata and Perez*) and one resulted in a finding for the Plaintiffs and a corrective order from the court (*Coleman*.) Initially this makes my relationship with court representatives clearly a subordinate one. Beyond that, the court representatives and I all have at least one thing in common to which we all can work together: ending court supervision. I need to distinguish Mr. Sillen as Receiver from Mr. Kelso as Receiver since I'm not sure that Mr. Sillen had 'ending court supervision' as one of his objectives. In reaching this common goal we may have differences and the authority of the various representatives becomes important in this context.

The Receiver is in charge of medical services. As I undertook my job in managing mental health and dental, he and I had agreement that he had no authority over mental health and dental. This was clear from the beginning of my appointment. The overlap of medical with mental health required, however, that I establish also a position of cooperation in order that we could proceed without argument on matters in common. From my standpoint, this is what we established at the outset.

I am certain that the present Receiver is more open to an inclusive arrangement in the management of our respective health care functions so that we can move decisively toward a transition back to the state. The changes that arise from Mr. Kelso's appointment should be viewed as more helpful overall than the prior Receiver and reaching concurrence on any given matter less difficult. This result is partly due to his declaration of a sharing attitude that is taken up by his managers and staff who can now deal more directly with mine, and with those of the Department.

The Special Master in Coleman does not manage mental health, but he has great influence with the judge, and therefore, has great influence overall that must be joined in producing effective results. In this, we are fortunate to have had Mr. Keating as Special Master, as we are now in having Matthew Lopes as Special Master. Both of these gentlemen have been both forceful and cooperative, and recognize that there are limits to the government's ability to respond to demands that arise in the case. Again, I assert that we have an established relationship that benefits the pursuit of the goal, although in this case it is recognized that I am responsible for the management of the mental health program.

The representatives in *Perez* do not have specific authority but are primarily advisors to the judge. Here again, they have influence and, as with the Special Master, a good working relationship with them is necessary to achieve results that both satisfy the court's orders and also meet the limits of government response. At present, I am conducting an assessment of the entire dental program and expect to generate changes that will need to be presented to the court. I have involved the *Perez* experts already in discussing this effort so that I can remove the element of surprise and benefit from their advice.

I see it as my job to engender positive and mutually respectful relationships with the Receiver, Special Master, and Representatives alike so that my views are supported in the balance with theirs.

6. *How do you coordinate with representatives of these cases? Do you attend the monthly coordination meetings?*

I have regular monthly meetings with the Special Master in *Coleman*, along with frequent telephone meetings that either he or I generate. In addition, I meet every two weeks with four to five specific Coleman monitors to discuss matters that are pending review, or to obtain their input on matters concerning the mental health practices in specific institutions or system-wide issues, and each quarter we have an "all parties" meeting.

I have regular monthly meetings with *Perez* representatives and, in addition, either they or I generate telephone and e-mail conversations. These are primarily status meetings, and I also use them to obtain their views on dental clinical matters.

I meet with the Receiver or his Chief of Staff whenever they or I think a meeting is needed; and I meet weekly with the Receiver's Director of Support on any matter concerning the operations of headquarters' functions.

I have attended the court coordination meetings since last summer, although they do not occur monthly. Usually my attendance is limited to specific agenda items and I am advised in advance. This limited attendance is due to the request of the *Coleman* Special Master who does not want to open the meetings up entirely to the parties in the case.

In addition, any matters of policy that will pertain to both medical and mental health or dental are addressed through workgroups of staff representing these disciplines and the mental health/dental aspects are subject to my approval.

7. *Judge Henderson has created an advisory working group to assist him in evaluating the receiver's plan of action. Are you part of the advisory group? If not, how are you kept informed about its recommendations?*

I am not a part of Judge Henderson's advisory working group and I do not have any communication with them so I am not informed of their recommendations unless they were to be published. I have recently received from Mr. Kelso a copy of his strategic plan with a request that I review it and provide him comments. This is the first such invitation I've had and I will undertake soon to provide comments. Heretofore, my information about the internal workings of the Receivership, other than subjects in which I am directly involved, came from the review of court filings. Recent, more direct communication is another indication of a new direction taken by the new Receiver.

8. *Given the heavy involvement of the federal courts in prison health care, please describe your specific responsibilities in terms of dental and mental health care. How are your duties differentiated from those assigned by the federal courts to oversee dental and mental health issues?*

I am responsible for the management of the mental health and dental programs; the court representatives are not. The *Coleman* Special Master and his monitors, and the *Perez* representatives conduct reviews of individual prison mental health and dental practices respectively and report, both to me and to the Special Master or the court, the results of these reviews. While these court representatives can and do make recommendations to me on matters of mental health and dental practice, they cannot require that I accept them. Obviously, however, after certain due process, the judges of the respective cases can issue orders, which of course are compelling. These orders

can emanate from recommendations made to the judges by the representatives. This situation makes clear the imperative that I establish the working relationships that I have, and that we operate with mutual respect, which we do.

9. ***The receiver's office plans to construct up to 5,000 medical and 5,000 mental health beds statewide. Are you involved in planning to meet the infrastructure needs—such as more clinical space—required to meet the mandates of the mental health and dental cases and how is that being coordinated with the receiver's infrastructure plan?***

As I discussed above, the mental health facilities are being integrated not only into the facilities that will be medical/mental health facilities, but it is important to note that the mental health program requirements are integrated into the planning and design process that the Receiver has undertaken that will define these facilities. (The facility program has and continues to be managed by Mr. Hagar, who has always been open to coordinated efforts.) Key management and staff from my Facilities and mental health units have participated in this planning and design process since it began last summer, and I am regularly briefed not only by my staff, but by the Receiver's Program Management contractor, as well.

Design for the dental clinic program is underway and is being managed by the Department's Facility Planning Construction and Management Division with regular and constant involvement of my Facility Development manager and specified dental clinical experts from the Dental Program. The requirements of this program are coordinated with the Receiver's construction program through my Facilities manager in two ways: (1) making sure that siting and construction of the Receiver-managed medical/mental health facilities will not interfere with siting and construction of the dental clinics; and (2) dental operatories that will be constructed in the medical/mental health facilities will meet the requirements specified by our dental experts.

10. ***Do you have the responsibility or authority to review the receiver's recommendations and the court's orders for cost effectiveness? If you do not have that authority, does anyone in the Schwarzenegger administration retain that authority? How should the Legislature review the court's recommendations in light of fiscal constraints?***

I do not have either the authority or the responsibility for reviewing the Receiver's recommendations or the court's orders for cost effectiveness. The Department of Finance exercises review of these matters and may deal directly with the Receiver on them. It is important to remember that the court has extraordinary authority in these matters and that determining cost effectiveness under this circumstance seems to me to be quite difficult. The extent to which the constitution requires the provision of certain levels of health care to prison inmates is not clearly defined outside of the workings of the courts themselves in their administration of the three cases: *Plata*, *Coleman*

and Perez. This would seem to make the determination of cost effectiveness a question for the courts themselves since ultimately they determine what health care must be provided, and it is the provision of a given level of care that determines cost. How the Legislature can review this matter in light of fiscal constraints is a very difficult question and I don't have an answer for it beyond those legislative prerogatives of audit and communication.

Staffing

In his report of May 14, 2007, on prison overcrowding, Mr. Sillen said, "Many CDCR prisons are unable to sustain the basic delivery of medical, mental health, and dental services because of limited staffing (clinical and custody) and an overwhelming number of prisoner/patients who require care." He discussed a system of patient triage, saying "every day, many California prison wardens and health care managers make the difficult decision as to which of the class actions...they will fail to comply with because of staff shortages and patient loads."

11. *Do you play a role in recruiting, hiring, or settling salaries for mental health and dental staff? If so, please explain.*

We have a specific recruitment and hiring program for mental health and dental staff that is operated jointly between staff in my office and CDCR Human Resources. It consists of focused recruitment activities such as advertisements, job fairs, etc., coupled with a 30-day hiring process in which a person is hired and able to report within 30 days of application. I do not set salaries for staff, except for recommending salaries for managers hired as Career Executive Assignments (CEA) and these salaries are set within established ranges.

12. *An inmate has traditionally filed a medical appeal to protest a health care issue or request that a medical issue be re-evaluated. Appeals are also filed about a wide range of custody issues not related to medical care. How are medical appeals being handled now that the receiver is overseeing medical services?*

The medical appeals process currently is in transition from the CDCR appeals unit to the Receiver's organization. I have begun a small appeals unit in DCHCS and, when staffed, it will cooperate with this transition so that all health care appeals are determined by the appropriate authority: medical, mental health or dental. I expect this function will operate much like the credentialing function, which also is managed by the Receiver and determinations of credentials for mental health and dental clinicians are made by DCHCS.

- 13. *If custody staff or other health care staff has a concern or complaint about medical staff, do you play a role in addressing it? Is it now the receiver's job to oversee allegations such as hostile work environment or retaliation?***

The Receiver has established a functional operational management organization headed by the Director of *Plata* Support. I refer any issues I receive regarding medical staff to this Director and follow up as necessary to make sure the matter is addressed. When any complaint is made with respect to staff now reporting to the Receiver, it is the responsibility of the Receiver to address the complaint, including allegations of hostile work environment or retaliation.

Disease Management

The federal receiver said in his fourth bimonthly report that prison overcrowding has increased the number and seriousness of infectious and communicable diseases, jeopardizing prisoners, staff, and the public.

- 14. *How does your office coordinate with the receiver to prevent the spread of infectious and communicable diseases?***

The Receiver is re-establishing a medical Public Health function that has the specific purpose of managing the spread of infectious disease. This is the appropriate placement for such a unit, and there are two areas of coordination that are necessary: (1) in respect to communication about the existence of an incident, such as multiple cases of an infectious disease at a single location and; (2) cases involving dentistry, such as methicillin-resistant staphylococcus aureus. Dr. Terry Hill for the Receiver is the top medical executive and he and I maintain regular communication on these as well as other issues. In addition, the Health Care Placement Unit in DCHCS is notified in the case of any breakout of infectious disease and it provides immediate notification to the CDCR Secretary and to me, as well as taking steps necessary to isolate infected inmates in appropriate ways, and control transfers to other, non-infected locations.

Parolees

CDCR oversees more than 120,000 parolees, many of whom have mental health needs.

- 15. *What responsibility does your office have to provide mental health services to parolees or direct them to local providers?***

DCHCS Mental Health Program does not have responsibility for providing mental health services to parolees. However, in pre-release planning, mental health staff assists with

the determination by the Division of Adult Paroles of a case management plan for transition to the community, as well as provides a 30-day supply of prescription psychotropic medications. The transition plan includes referrals to the Parole Outpatient Clinic, which provides ongoing mental health treatment, including prescriptions, for the referred parolees.

Juveniles

The courts have not assumed responsibility for delivering health care to youthful offenders in the Division of Juvenile Justice (DJJ).

16. Do you help manage or set policy for juvenile health care? How do you coordinate with DJJ staff?

Health care for wards of the Division of Juvenile Justice (DJJ) is provided under a Settlement Agreement determined in the *Farrell* case and is overseen by a Special Master in that case. I do not set policy for juvenile health care. I have met with the Chief Health Care Administrator and the Chief Medical Officer at DJJ to review the health care process and am regularly available to provide assistance as needed. In addition, the new Director of Juvenile Programs, whose responsibility includes health care, is a colleague with whom I speak with frequently.

Female Inmates

In the past several years, CDCR has emphasized developing gender-specific strategies and being more sensitive to the unique needs of female prisoners on a wide range of issues, including health care.

17. Are you aware of any health care initiatives aimed specifically at female inmates? If there are, how are the results being measured?

The Female Offender Master Plan includes Objective IX: Wellness, which specifies the departmental objective for female offenders:

To ensure all services meet community and court ordered standards, any efforts related to improving the health and well being of the female offenders will be done in conjunction with and under the authority of the court appointed medical Receiver, as well as any court cases impacting these programs such as *Plata* (medical), *Coleman* (mental health), and *Perez* (dental).

Both community and institutional programs will adopt a wellness model to provide a more appropriate approach to staffing and services to serve the healthcare, emotional

and physical needs of women offenders. In collaboration with court appointed experts, the Female Offender Program and my Division will develop and implement policies, programs, and procedures that address the issues of mental health, trauma, and substance abuse through comprehensive and integrated services and supervision.

Specific examples of new programs that have, or will be shortly, activated for the female offenders include:

- A Psychiatric Services Unit at the California Institution for Women (CIW) for ten offenders – activated
- Perez Dental Expansion at all Woman's prisons – Planned activation for Mainline institutions July 2008/Reception Centers July 2009

There are also plans for Female Community Correctional Rehabilitation Centers that are designed for 75, 100, and 200 inmates. They would provide female offenders with educational and vocational programs, substance abuse treatment and education, group and individual counseling, family counseling and reunification programs, sober living skills, wellness, recreational and religious programs, and links for community services. Women offenders would be placed in a center near their county of commitment and have access to structured rehabilitative programs near their family and children to strengthen their ties with her children, enhance family reunification, and help break the intergenerational cycle of crime.

Each new program that is activated includes a research component as part of the design of the program.

Improving our services to female offenders and addressing the healthcare issues identified in the Little Hoover Commission November 2004 "Breaking the Barriers for Women on Parole" is a priority to me. My staff and I work very closely with Wendy Still, the Associate Director of Female Offender Programs and Services. My staff are also standing members of the Department's Gender Responsive Strategies Commission.

Organization

The 2005 reorganization created two main health care positions, the director's job and the assistant secretary's position. You are the second official to hold your position.

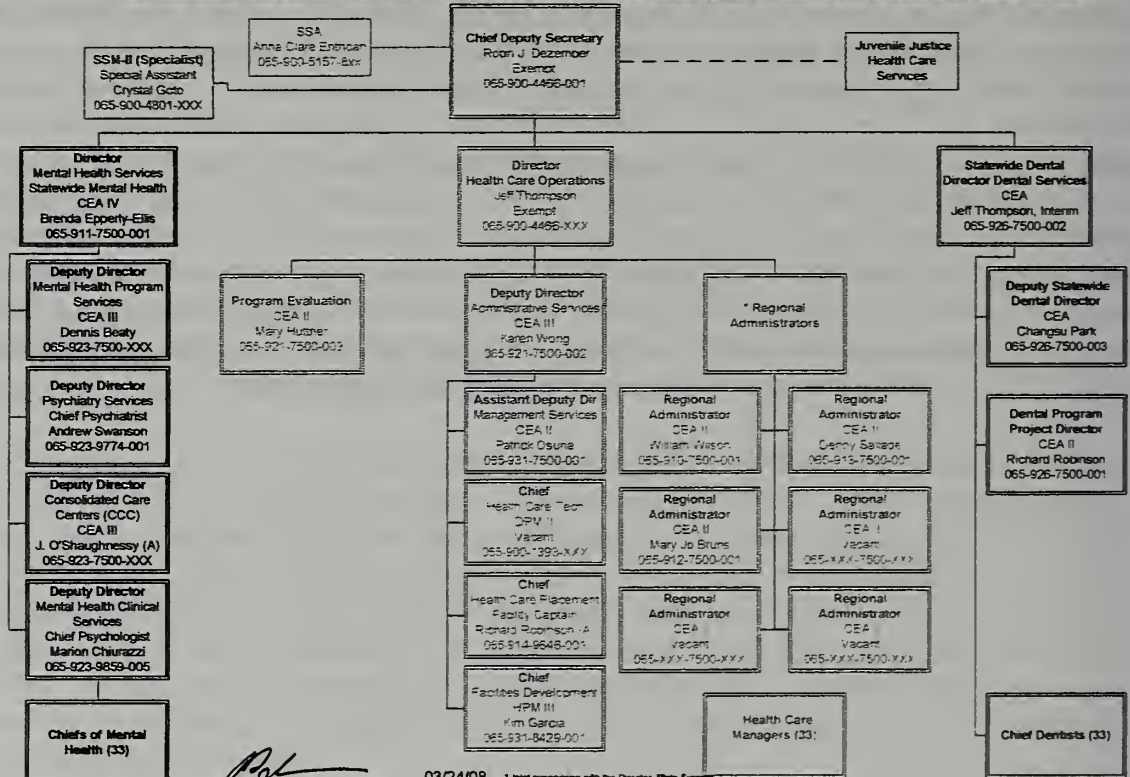
18. How do you coordinate duties with the assistant secretary of Health Care Policy, and how do his duties differ from yours?

Primarily at my recommendation and after I arrived last June, the position of Assistant Secretary of Health Care Policy was reassigned to me at DCHCS. Essentially, this is the number two position in DCHCS and at the present time supervises functions of the

Division other than the Mental Health Program and the Dental Program. (Reference the attached organization chart.) This approach to the DCHCS organization serves the dual purposes of overseeing the current administrative responsibilities of the Division while initiating the larger view of the organization that I expect will be attained when the Receivership ends and medical, mental health and dental, and their administration, are joined. This position corresponds roughly with the Receiver's Director of Plata Support and is actively engaged in the design of the organization that will exist when the Receivership ends. The health care organization does not lack for policy direction and nevertheless the extensive experience of the senior members of the clinical staff provides a wealth of information for policy development and this information is provided through our policy development practices. The primary need for this organization now is fundamental performance and compliance with existing policies.



California Department of Corrections & Rehabilitation Division of Correctional Health Care Services



Chief Deputy Secretary, DCHCS

03/24/08

* Joint supervision with the Director, State Support
CPR, Inc.
Positions highlighted in yellow were hired since June
2007.

Senate Rules Committee

QUESTIONS AND RESPONSES

MAR 18 2008

Goals

Appointments

1. ***Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as director of CDSS? How will you evaluate your success?***

First it is worth acknowledging the California Department of Social Services (CDSS) mission is: *"To serve, aid and protect needy and vulnerable children and adults in ways that strengthen and preserve families, encourage personal responsibility and foster independence."*

Upon arriving at CDSS I began a strategic planning process for the Department. Taking into account our mission statement, this process highlighted various challenges and priorities facing the CDSS. The strategic plan is a way to focus the Department's attention and leadership on achieving concrete, measureable results over the course of the next 18 to 24 months.

In addition to input from the CDSS executive team and many CDSS employees, the strategic action plan was also informed by reaching out to a large number of external partners to get their insight into various priorities facing the Department. These stakeholders included members of various advocacy groups, Legislators and staff, trade associations and consumer groups, the County Welfare Directors Association (CWDA) including individual county welfare directors, the California State Association of Counties (CSAC), foundations and various nonprofit organizations (including other governmental partners from various state agencies and the Judicial branch), and clients of CDSS programs and services.

This process led to the identification of six priority areas, including:

- Statewide Data on Program Performance (increasing transparency in outcomes to assess statewide performance measures, with the goal of identifying best practices and better targeting resources to areas most in need);
- Food Stamp Access (recognizing the importance of nutrition and adequate food, increasing access to food and Food Stamps);
- Workforce Development (planning to ensure the CDSS is able to meet its and the public's future needs, making us an "Employer of Choice," proactively addressing our higher rates of impending retirements, and making the CDSS the best Department of Social Services (DSS) in the country);
- Increasing Access to Employment (acknowledging that the CDSS mission is about building self-sufficiency and alleviating poverty. In order to achieve our mission we must actively

seek ways to increase access to important resources for those we serve; for many, this will be through employment as well as other supports);

- Safety and Well-Being (seeking to improve the lives of all of those who come to us, recognizing our fundamental obligation is to ensure safety and well-being while under our care and/or custody); and
- Program Integrity (acknowledging that as a public entity we also serve the taxpayer and thus must strive to ensure only those eligible for our programs and services have access to them. The integrity of our programs also serves the best interests of our clients so the public knows our resources are going to those for whom they are intended, in as an efficient manner as possible).

Consequently, my goal as Director is to deliver concrete outcomes in addressing these priorities during my tenure with the California Department of Social Services, in furtherance of the CDSS mission. In addition, I will also strive to continue to shape this strategic action plan to be responsive to the ever-changing internal and external demands placed upon the Department.

2. How would you characterize your specific role in facilitating the efficient and effective operation of human services programs?

I think the state DSS director has an obligation to facilitate the efficient and effective operation of programs under the purview of the Department, on several levels. I believe it is the unique responsibility of the state DSS director to exercise leadership across these levels in the delivery of social services for the benefit of all Californians served by various social services systems.

First, there is the fact the CDSS is the largest social services system in the country. Consequently, California is in a unique position to weigh in on many programmatic issues on the national level, attempting to ensure federal policies are of benefit to the state. Furthermore, in the state/federal relationship, CDSS is the single state agency for many programs (e.g., Food Stamps, child welfare, and cash assistance) and therefore ensures proper coordination of federal requirements with statewide policies, regulations and practice.

Second, the state has the unique vantage point of having a broad view of the social services delivery system for California's most vulnerable populations. In this capacity, the CDSS is in a position to highlight the most effective programs and practices, creating an environment that moves the whole system in a more effective direction. This is done, in part, by monitoring individual county performance, while providing assistance and support where needed, and highlighting best practices across the vast array of programs delivered by the state's social services system. One example of the positive application of this approach is the increased number of counties meeting the federal requirement to visit 90 percent of foster children at least once a month impart, through CDSS monitoring, contact and follow-up, the number of counties meeting this threshold has increased to 90.2 percent from only 77.6 percent in April 2003.

3. *You came to California from Massachusetts. What are the three biggest differences between the operation of human services programs in the two states?*

Comparing my experience in Massachusetts to my experience thus far in California, I would say three of the biggest differences between the operations in those two states are: (1) the state/county dynamic; (2) the size and scale of operations and resultant role of formalized processes; and (3) the relationship with the Legislature (including staff).

The first and probably most striking difference is that Massachusetts is a state-administered system, compared to California's state-supervised, county-administered system. In my previous position as Commissioner of the Massachusetts Department of Transitional Assistance (DTA), I oversaw the 26 local offices spanning the state as well as the Central Office operations in Boston. In general, the span of control over departmental policies and implementation of programs was greater and more consistent in a state-administered system in which the head of each local office reported ultimately to the Commissioner. This arrangement also facilitated a more flexible deployment of resources in response to changing needs and demands. Massachusetts counties were not involved in the delivery of programs or services.

Alternatively in California, the state works in strong partnership with the 58 counties that administer our programs. Oftentimes the state role is to determine policy frameworks around which counties can determine their own program designs and methods of implementation as long as they are within these regulatory and policy thresholds. And the California system is dependent upon county directors who report to local supervisors, not state officials (except in extraordinary circumstances). I do believe, however, my former experience in being ultimately responsible for direct service delivery in Massachusetts' local DTA offices makes me keenly sensitive to the local and sometimes unique pressures a county welfare director faces in a county-administered system.

The second significant difference between the two states is the size, scale, and scope of our operations here in California, which are incomparable. This manifests itself in a variety of ways, including an added reliance on process in a system this size and complex, as well as the need to appreciate the diversity of needs and differences to which our programs must appropriately respond. In addition, the expansive scope of responsibility of CDSS offers an opportunity to work across programs for the benefit of a population often served by more than one program.

And finally, I think the relationship with the Legislature is very different in California compared to Massachusetts. In California, oftentimes legislative staff are important stakeholders with whom we partner in developing programmatic policies and options. Here, legislative staff seem to have a greater role and expertise in many programmatic and policy areas that interface with the Executive branch. In general in Massachusetts, though legislative staff were important, they often did not have the longevity in the system and it was often the Members who weighed in from a programmatic or policy perspective.

CDSS Relationship with County Welfare Departments

4. ***What do you view as the primary role and responsibility of the state in administering social services programs? Of the counties? How do you ensure a positive working relationship and communication with the counties so that the experiences of the counties are incorporated into policy and budget changes, and that counties receive clear and consistent direction from the state?***

In many ways I believe the roles of the state and counties are fundamentally different. However, I also believe we share the same goal of striving to serve efficiently and effectively those who come to us for assistance, given the resources provided to us. It is in both of our interests to work closely and communicate frequently to that end. And it is also in both of our interests to have a strong system—both at the county level and at the state level. To me, having a strong state and a strong county system are not mutually exclusive.

I believe the state's role is to ensure thresholds and standards for our programs set by statewide policies or regulations provide some level of consistency for all Californians seeking resources or services from our departments. From the perspective of the federal government, CDSS is the single state agency, and the only entity, which they will hold responsible for operating all our programs in compliance with their standards. Our role is to assist counties in meeting those standards or thresholds and monitoring county programs and operations to ensure those standards are met.

The CDSS can assist counties through a variety of ways by working within the Administration, including weighing in with our federal partners to ensure federal requirements take into account California's needs, and weighing in with our state partners to ensure state requirements take into account county needs.

I believe it is also within the CDSS role to ensure the state's social services system is one in which there is continuous quality improvement. This can be achieved by providing technical assistance or incentives to replicating successful practices that may be found in other states or in various counties around California. The Department's strategic action plan component on "statewide data on program performance" and the benefits of state monitoring and follow-up clearly play a role in this improvement.

As the administrative partner of the state, the counties' role is to ensure that social service programs are delivered in a way that conforms to federal and state requirements, while most effectively meeting the needs of the populations in their respective county communities.

As I mentioned in the beginning of this response, I believe the state and counties share many of the same goals, and the social services system in California works best when there is consistent and open communication between the state and county partners. To that end, the state must make a concerted effort to be knowledgeable about, and sensitive to, issues and needs developing at the local level. Since coming to California, I have made an effort to go out to various counties to meet with county welfare directors, staff and clients. I have also encouraged CDSS central office staff to do the same. I believe the state system is made stronger when informed by the realities playing out at the local level. Maintaining this sensitivity to local issues and open communication is essential to the state's ability to respond appropriately and adequately to the ever-changing needs of those we serve. It also facilitates a better

understanding of state-level realities and priorities as they are communicated to and implemented by the counties.

And as far as counties receiving “clear and consistent direction from the state,” we regularly issue All County Letters (ACLs) and All County Information Notices (ACINs) setting forth our policies and procedures. We typically partner with various counties in the review of these directives to ensure they are clear and consistent prior to their release. We also communicate policy clarification and direction via our participation in various committees of the CWDA. We partner with counties in drafting regulations and seek their input when implementing legislation to ensure that policies we adopt take county-level implementation issues into consideration. Counties also actively participate in the many work groups we create to get input to policy decisions from a wide range of stakeholders. We are committed to continuing to work with counties in these and other ways to ensure clear communication with our county partners.

5. *How would you characterize the current relationship between CDSS and the county welfare departments? Is there anything that you would like to see altered in this relationship?*

There will always be a natural give-and-take between the state and counties, based on the roles we play in a state-supervised, county-administered system. Counties have more of the front-line responsibility, while the state is ultimately responsible for setting the statewide policy for ensuring the needs of California’s vulnerable populations are best addressed. This relationship, coupled with the significant diversity of the state, including our geography, population size, languages, culture and ethnic representation, is amazingly dynamic. In addition, given the fiscal challenges facing California, counties will be seeking to maximize their resources (including those from the state) just as the state will be grappling with ways to maximize resources and efficiencies while curtailing costs. Nevertheless, I am significantly impressed by the positive and productive working relationship between CDSS and county welfare departments.

Direct dialogue with our county partners is important in helping counties understand the opportunities and challenges facing California and the context in which statewide decisions are made. It is equally important for the state to be aware of county issues. To that end, in addition to ongoing dialogue as issues arise, CDSS staff and I meet regularly with county staff and participate in monthly meetings hosted by the CWDA. In addition, I have visited several counties and will continue to travel to local offices to meet with county directors, staff and our clients. I also encourage my management team to go to the counties to witness first-hand how our state policy is playing out locally. From each of my visits I have returned to Sacramento very impressed with the dedication of county social services staff, as well as with the innovations that I observe in local offices.

I have also met with the California State Association of Counties, and look forward to strengthening my relationship with county supervisors and executives. It is critical for me and my staff to understand local and regional dynamics first-hand and to use that understanding to inform our statewide policy development and program oversight activities.

One item I would like to see improved in order to strengthen our state system is better access to statewide data on our programs and those who utilize our services. Without timely, statewide data on our clients and programs, California’s social services system suffers in its planning, implementation, ongoing monitoring and in our ability to respond to the information needs of the

Legislature. I know there is much history to the development of California's consortia of eligibility systems, but without regular access to statewide data our system as a whole suffers.

6. *The Governor's Budget proposes significant reductions in funding for the county administration of many of the programs counties operate under the jurisdiction of CDSS. In addition the State has generally not funded any cost-of-doing-business increases in these programs for 6 or 7 years. What actions do you think the State should take to help mitigate any adverse consequences of county administration funding reductions on essential program functions? Please specify whether these changes would be regulatory or statutory.*

I think it is important to acknowledge the extraordinarily challenging fiscal times that California is facing. As the Governor repeatedly states, the fiscal situation required some very tough decisions to be made in the submittal of the Fiscal Year (FY) 2008/09 Governor's Budget. The recent current year reductions passed by the Legislature and signed by the Governor helped to reduce the projected deficit, though there continues to be a structural deficit facing our state.

It is also important to recognize the impact that the past and current fiscal challenges have had on the CDSS. Like our partners on the county level, so too has the CDSS been impacted by the fiscal challenges that California has faced over the past few years and continues to face. Having said that, it is my hope that we fix this structural imbalance so that the California social services system (both at the state and county levels) can benefit from a stronger economy and steadier budget—something that would benefit all of California.

Admittedly several years without a specific cost of doing business increase has been challenging for counties as well as CDSS. To help mitigate the funding challenges I am committed to working with the counties to identify strategies to streamline administrative requirements and processes wherever possible. Some examples of streamlining strategies we have explored or are exploring through non-statutory means include:

- The state's successful procurement of a federal waiver in the Food Stamp Program will give counties the option to substitute a phone interview in lieu of an in-office interview for certain populations. In addition, CDSS will be reviewing the implementation of this waiver and will examine whether this streamlined process can be expanded to other populations (requiring expansion of our existing federal waiver).
- Efforts currently underway to expand the new web-based Food Stamp application in the Consortia IV automation system (named C4Yourself) to other consortia systems will allow for a more streamlined process to take Food Stamp applications.
- Proposals to reduce administrative burden for counties include utilizing verification efforts performed by the Department of Motor Vehicles (DMV). We have met with the DMV to determine what verifications they perform before issuing driver's licenses or identification cards. When DMV completes California's implementation of the federal REAL ID Act, it may be possible for county welfare departments to accept driver's licenses or identification cards issued by the DMV as verification of identity and of citizenship. Ideally this would make it possible to eliminate the current need for the counties to perform these verifications for all those people who possess the DMV documents.

- CDSS is making efforts to streamline access to federal disability benefits. We know that many counties have undertaken their own efforts to increase access to federal disability benefits (Social Security Disability Insurance or SSDI and Supplemental Security Income or SSI disability benefits). The CDSS performs the medical/vocational determination of disability through its ten Disability Determination Service (DDS) branch offices. CDSS staff are working with counties to coordinate county efforts with CDSS/DDS requirements that will result in a more efficient process, ensuring more individuals have access to these important federal benefits. In addition, beginning February 1, 2008, the CDSS/DDS Division implemented a statewide effort called the Cooperative Homeless Office-Initiated Consultative Examination or "CHOICE" process, streamlining the application process for the state's homeless population. Absent these federal disability benefits, counties often are left to bear the costs of homelessness. This CDSS-led effort resulting from our successful negotiations with our partners at the U.S. Social Security Administration has reduced administrative requirements on a very vulnerable population.

Additionally, I believe that good program management in fiscally challenging times should involve a thorough examination of our current utilization of existing resources and maximization of other (non-state) resources. As an example, California's participation in the federal Food Stamp Program (FSP) is among the lowest in the nation. Though national data shows we have begun to turn this around over the past year (increasing the state's participation rate from 48 percent of those eligible to 50 percent), we still have much more to do. On March 6, 2008, the CDSS hosted a conference call with 18 counties and some consultants who specialize in innovative strategies for increasing access to FSP benefits. This call was the result of a request from a consortia of counties during one of my recent visits to the counties. We are also working with other states to learn from their success at increasing FSP participation. In the CalWORKs arena, the CDSS was recently successful in obtaining a federal technical assistance grant that will help California bring together in-state and out-of-state experts to improve our federal Work Participation Rate (WPR). The technical assistance grant will fund a two-day academy this summer.

Foster Care GAO Report

7. *What actions is CDSS taking to address racial disparity in California's foster care system?*

Racial disparity in the child welfare services system is a national issue and a significant concern to the CDSS. It is a complex issue that goes well beyond CDSS and even the child welfare system in general. The data shows that for California, African American and Native American children are overrepresented at key milestones (substantiated referrals, foster care entry, and in foster care). Hispanic children are overrepresented to a lesser degree and Asian children are underrepresented.

CDSS is very concerned about racial disparity in the child welfare system and is currently involved in several efforts to better understand what might be causing this overrepresentation of certain populations in our child welfare system. The CDSS chairs the State Interagency Team (SIT) composed of representatives from several state agencies¹ serving children. The SIT

¹ Employment Development Department, Department of Alcohol and Drug Programs, California Workforce Investment Board, Department of Developmental Services, Department of Health Care

Disparity Workgroup was developed in response to concerns about disproportionality. The purpose of the SIT Disparity Work Group is to examine ways to eliminate disparities across systems and make progress toward fairness, equity, and quality of services for California's diverse racial, ethnic, and cultural children, youth and families.

In further support of the SIT Disparity Workgroup, the California Disproportionality Project, a partnership with the Annie E. Casey Foundation and Casey Family Programs (through the California Co-Investment Partnership) will focus on implementing practices, protocols, and policies that will eliminate disproportionality and disparities in outcomes for children and families of color in the child welfare system. Starting in May 2008, the project will bring together 12 county-based teams and the SIT Disparity Workgroup to address racial disproportionality and disparity in California's child welfare system. The goals of this effort are to:

- learn what works to achieve racial equity in child welfare services,
- develop and disseminate new knowledge throughout the field,
- promote effective federal and state policy through education,
- design and implement data collection, research and evaluation methods that document positive evidence-based practices and strategies, and
- ensure that birth parents and foster youth and alumni are leaders in assisting child welfare agencies achieve racial equity in child welfare services and program.

Finally, the CDSS is a member of the newly formed California Child Welfare Council (CWC), co-chaired by Associate Supreme Court Justice Carlos Moreno and California Health and Human Services Agency Secretary Kimberly Belshé. In addition to several state agencies, the CWC also includes leaders from the Legislature, the Judicial branch, foundations (including those involved in the aforementioned Disproportionality Project), advocates, and foster youths. As the CWC continues its work, I know this issue will continue to be of interest to the Council.

8. *How will CDSS monitor the counties' improvement in reducing racial disparities in the state's foster care program?*

The CDSS contracts with the University of California, Berkeley to gather and analyze data related to disparities and disproportionality and to assist in program planning. This provides us the capability to monitor each county's data over time. Additionally, the Department utilizes the Child Welfare Services/Case Management System to identify and track progress toward eliminating disparity and disproportionality. This data has been an important educational tool to heighten awareness of this issue.

Through the California Disproportionality Project, county data and documentation will be managed to guide the project's focus. When the project is launched in May 2008, CDSS will meet regularly on the progress of this project with the Annie E. Casey Foundation and Casey Family Programs, who are partners in this effort.

Services, Department of Justice, Department of Education, Department of Mental Health, Department of Corrections and Rehabilitation, and the Judicial Council of California.

9. ***There has been significant discussion about the adequacy of services available to abused and neglected children and their families and the adequacy of services to abused and neglected children. What do you believe is the role of CDSS in ensuring an adequate supply of placement and services for these vulnerable children? How do you work with the counties to determine if there is an adequate supply and how that supply might be increased? How do you coordinate with other state and local departments, such as Mental Health and local probation, as part of this effort?***

The role of CDSS is to oversee and provide leadership to counties and to help promote a system of service delivery that meets the needs of families under our jurisdiction. This includes assisting in the provision of resources through the annual state budget process, establishing policy priorities, providing structure for local needs assessment and decision making, and providing technical assistance to address specific challenges.

One policy priority worth noting is that children that need to be removed from the home of the biological parents due to child maltreatment are placed in the homes of someone they know and that cares about them. Today, over 30 percent of all children in foster care are placed with relatives. To support the relative caregivers the Department has supported the Kinship Support Services Program. Additionally, the Department has provided policy direction and training to support relative placements.

The implementation of the child welfare "outcomes and Accountability" process (AB 636, Chapter 678, Statutes of 2001) provides a standardized structure and process in which all 58 county welfare departments, together with a broad based stakeholder group, identify local strengths and challenges of their child welfare system. From this county self assessment process a System Improvement Plan (SIP) is developed and ultimately approved by the Department. Integral to the SIP is the identification strategies to improve the efficacy of the system which can include plans to address service gaps. CDSS staff works collaboratively with local child welfare officials to craft a plan that meets the unique needs of the jurisdiction. Additionally, CDSS through its role as the administrator of the Child Welfare Services Outcomes Improvement Project supports local efforts identified in the SIPs including accessing federal matching funds as appropriate.

CDSS provides technical assistance to counties to address specific circumstances that are identified by either party. With respect to increasing appropriate placement options in a given jurisdiction, the Department has and continues to work with counties and the provider community to address local needs. Recently, CDSS has agreed to expedite the licensing and rate setting processes to establish a foster family agency to assist a county to recruit and retain foster homes and reduce the need to house younger children in congregate care.

The Department coordinates with county child welfare agencies, the federal government and the network of federally sponsored National Resource Centers (NRCs) to address local, regional or statewide challenges to achieving positive outcomes for children and families. Work with the NRCs has proven fruitful in adoptions and standardized training for child welfare workers and supervisors. CDSS has also established the California Evidence-based Clearinghouse for Child Welfare. The Clearinghouse provides local child welfare officials and community-based organizations with detailed program descriptions and implementation information on a variety of evidence informed practices. This information assists local communities to make decisions related to resourcing needed services.

The CDSS is committed to coordinating its services with other public and private agencies to better meet the needs of children and families. The CDSS participates in a number of committees, workgroups, forums, task forces and special projects. Representation includes, but is not limited to, educational/research institutions and agencies related to drug and alcohol, health, mental health, education, domestic violence, and juvenile courts representing various counties.

For example, the Department coordinates with other state agencies as part of program-specific work groups and through the State Interagency Team (SIT), which is composed of representatives from many state agencies and chaired by CDSS. The purpose of the SIT is to help improve state level collaboration and communication.

Specific examples of some current collaboration among state agencies include:

- Health Care Program for Children in Foster Care: CDSS, in partnership with the Department of Health Care Services, provides public health nurses to work in local child welfare agencies to provide health care oversight of the physical, behavioral, dental and developmental needs of children in foster care;
- Foster Youth Service (FYS) Program: In collaboration with CDSS, the California Department of Education administers the FYS program with the goal that health and school records are obtained timely and that instructional, counseling, tutoring, mentoring and vocational services are coordinated for children in foster care; and
- Dependency Drug Court: In partnership with CDSS, the Department of Alcohol and Drug Programs established this program to provide parents, whose children have been removed by the court, with the necessary parenting skills and treatment for their substance abuse to allow children to return safely to their care.

Additionally, the California Child Welfare Council is proving to be an excellent vehicle for coordination across departments, branches and levels of government. This body is comprised of many state agency directors, legislators and stakeholders, including advocates and philanthropy. As an advisory body, the Council will be responsible for improving the collaboration and processes of the multiple agencies and courts that serve children and youth in the child welfare and foster care systems. The Council's desired outcomes hold significant promise and I am very excited to be a part of it.

Adult Programs

10. *With the onset of the aging of the baby boomers, how do you think the State and CDSS can provide these types of services to an aging population? Are these programs currently structured to meet increasing demands?*

In programs for adults, the Department has been looking to the future and positioning our programs to effectively provide essential services to the ever-increasing aged population, which will reportedly hit its peak in 2022 when the largest group of baby boomers reaches Social Security age. We have multiple efforts underway to address the needs of this growing population, including:

- In collaboration with the Department of Health Care Services (DHCS), development and implementation of waivers that allow for increased federal funding, and the greatest flexibility of care options for California's elder and disabled populations. For example, the In-Home Supportive Services (IHSS) Plus Waiver allows spouses and parents to provide care to their spouse or child and it allows individuals to receive advance payment for services so they can manage their care needs better. In 2008 CDSS is working with DHCS to continue this program in a new Medicaid state plan.
- Improved quality of IHSS assessments and other social worker services. CDSS is continuing to use data from our Hourly Task Guidelines and county monitoring reviews to improve the IHSS Social Worker Training Academy. The training provided through the Academy has led to improved uniformity statewide and improved detailed documentation of each individual's functioning and needs assessment. As the aging population continues to grow it will be essential that an individual be accurately assessed for their functional abilities and needs to ensure safety and cost effectiveness.
- Maintaining a stable, able and available provider pool for IHSS recipients will be an important element as the IHSS aged population grows. In recent years wages and benefits have increased significantly for IHSS providers and have resulted in improved availability of IHSS providers in many areas of the state. Today, registries maintained by Public Authorities in the counties are becoming more stable and are ensuring greater choice and availability of providers for recipients.
- There is also a growing demand for greater flexibility and a range of wages to address needs in emergency response cases and complex care cases. In the future, the Case Management Information and Payrolling System (CMIPS II) will have new features to allow for multiple wages within a county. This will allow counties the ability to expand the types of services that can be provided and allow for higher wages for those engaged in more difficult assignments.

CDSS will continue to evaluate the structure of the aging programs and to ensure that the increasing demand continues to be addressed within available state resources.

Community Care Licensing

11. Has CDSS hired and trained sufficient staff to meet the requirement for 30-percent-per-year random inspections of all community care facilities?

The CDSS has made every effort to hire new Licensing Program Analysts (LPAs) to fill all of the new positions received in this year's Budget and has begun the training process for these new analysts. Given the timeframe of the budget, hiring was not completed until the end of calendar year 2007. Although new staff became partially productive in only a short amount of time, the full training of an LPA takes at least 18 months, highlighting the wealth of information an analyst must learn in order to be effective at protecting the health and safety of vulnerable clients in a care arrangement. The analyst must gain a thorough understanding of the complex laws and regulations that govern each type of facility in their caseload and how to apply them; they must understand the varying needs of the client group served (i.e., child development, mental health, developmental disabilities, chronic illnesses, elder care, etc.); they must gain an understanding

of how licensees operate; and finally, they must learn to use the technology tools available to them.

Despite the extensive hiring we have done, the Community Care Licensing Division (CCLD) currently has a nine percent vacancy rate which has an effect on our ability to achieve all of our various mandated visits. Thus, to ensure that the most important inspections are done first, we prioritize our visits. Responding to serious complaints within ten days is the highest priority and consistently yields the most serious health and safety violations. The other types of inspections are assessed based upon risk, or to monitor problem facilities, or are necessary to comply with federal requirements. Random sample inspections are the lowest priority.

12. The Governor's proposed budget would change the rate of random, unannounced inspections of community care facilities to approximately one-in-seven years rather than the existing one-in-three years. How would CDSS try to assure the health and safety of clients in community care facilities with this reduction in the frequency of inspections?

Consistent with our mission and CDSS priorities outlined in the beginning of this letter, I am committed to assuring the health and safety of clients in care by maintaining an infrastructure that supports the values of prevention, compliance and enforcement. As described in the response to the prior question, the vast majority of facility inspections conducted by the Department are to investigate complaints, to monitor problem facilities and in response to federal requirements. These types of inspections currently provide the greatest assurance that facilities are safe and healthy for clients, and these types of inspections will not be affected by the proposed reduction in random inspections. The most serious violations are found during complaint investigations, which will continue to be our highest priority. Following up on complaints reinforces the importance of the "partnership" we have with parents, family members, and the public who are in a position to see first-hand on a daily basis what is occurring in a facility.

Planning for Staff Retirements

13. What percentage of the department's managers do you anticipate will retire over the next two years and the next five years?

I am pleased CDSS was a featured presenter at the "Workforce Management Conference" recently hosted by you and Senator Roy Ashburn to highlight some of the work we have done to prepare for our future workforce needs given the demographics facing our Department.

CDSS' workforce in general is older than the rest of state government's employees. We have 607 managers and supervisors, and 65 percent (395) of them are age 50 years or older.

- Approximately 36 percent (217) of them are 55 or older, with at least five years of state service. This would be the group most likely to retire in the next two years.

- Of the 607 managers and supervisors, 26 percent (or 157 managers) are between 50 and 54 years of age, with five or more years of state service. This would be the group most likely to retire in the next five years.

14. Briefly explain the Department's plan and what components you believe are the most effective and why?

I firmly believe that in order for the state to attract and retain the best employees there needs to be a fundamental change in the culture of state service. We must vest in our employees the tools to allow them to best serve their customers while at the same time fostering their personal and career growth. As such, one of my first priorities has been to focus CDSS' workforce culture towards making CDSS an "Employer of Choice" (I've referenced this as one of the six CDSS priorities in response to Question #1 above). These efforts are designed to set us apart from other employers and further attract people to come and work at CDSS. Our plan includes many elements all of which are important to the overall effectiveness of the plan. Following is a partial list highlighting some of the elements included in our plan:

- **EMPLOYER OF CHOICE:** The Department's overall efforts to become an "employer of choice" are the centerpiece of creating an employee and performance enhancing culture. CDSS has attracted external, recognized leaders to assist us in improving our management practices, culture and employee retention efforts. Roger Valine, former CEO of Vision Services Plan or VSP (rated on the Fortune 500 as one of the best places to work the last 10 years), conducted a *pro bono* organizational review for the Department, including recommendations for improving leadership communication, culture and retention. Betsy Sanders, former Vice President of Nordstrom and now international executive coach, also joined this effort and is providing ongoing consultation to the Department. These efforts are designed to set us apart from other employers and further attract people to come and work in a place noted as "an employer of choice": a place people come, stay and thrive.
- **LEADERSHIP DEVELOPMENT:** The California Performance Review (CPR) recognized CDSS for our Professional Management Development Program (PMD), as "a best practice within state government that could be developed statewide." I am pleased to report that PMD has been resumed after a temporary deferral. It includes:
 - **Mid-Level Management Academy** serving 50 mid-level managers across CDSS, providing a common set of leadership tools, training and approaches for our next generation of potential senior managers;
 - **Leadership Forums** for our top 100 senior managers with an emphasis on leadership learning and development. In addition, there are 30 supervisors and mid-level managers added on a rotating basis to further succession efforts and to spread learning opportunities.
 - **On-line resource reference guide** called Fast Access to Supervisory Tools (FAST), providing an on-line depository of basic supervisory resources on topics like Equal Employment Opportunity (EEO), Worker's Compensation, general hiring policies, etc.

- **MENTORING:** The CDSS launched a mentoring pilot last September. This initiative provides 26 mentors to first-line supervisors to develop skill building and problem-solving techniques.

CDSS' approach to succession and workforce management is rooted in the best practice of first establishing a foundation and a culture that promotes retention by creating a workplace that supports employees to serve their customers and perform at their best. Without a positive culture that attracts and retains talent, all other workforce management and succession planning efforts only serve a revolving door of staff. We believe this to be the most effective approach. It has been substantiated by long-term industry research and will better prepare us for meeting the Department's workforce demands and needs in the years ahead.

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SECRETARY OF THE SENATE

NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

February 5, 2008

Donald E. Bradley

Dear Mr. Bradley:

The Senate Rules Committee will conduct a confirmation hearing on your appointment to the Hastings College of Law Board of Directors on Wednesday, March 12, 2008. You are not required to appear, but we request that you respond in writing to the following questions. Please provide your responses by February 25, 2008.

We would also like to receive an updated Form 700, Statement of Economic Interest, by February 25th.

Goals

1. *Please provide a brief statement of goals you hope to accomplish while serving on the Hastings College of Law Board of Directors. How will you measure your success?*
2. *Do you believe you receive the information you need to provide policy direction? Is there any additional information that would be useful to you?*

Student Fees and Financial Aid

Students enrolled in the University of California's professional schools such as Hastings have experienced significant fee increases in recent years. In November 2007 Hastings students were notified that the fee schedule adopted by the Board of Directors for the 2008-09 academic year would increase annual resident enrollment fees to \$28,500, an increase of 18 percent. The governor's 2008-09 proposed budget reflects this increase, and also includes a General Fund reduction of \$1.124 million.

Hastings' financial aid office reports that approximately 80 percent of the student body utilizes loans, grants, or scholarships. Seventy-three percent of Hastings students on financial aid receive some grant income. Hastings' grants are funded through student fees and state allocations. Scholarships generally come from private endowments.

Hastings also has a forgivable loan program called the Public Interest Career Assistance Program available to graduates who are working full time in government or public interest law and earning less than \$60,000 per year. Between 70 and 100 percent of eligible loans may be forgivable under this program, depending on the number of years employed in the public interest.

3. *Beyond the loan program, should the board take other action to keep Hastings affordable to low- and moderate-income students?*

Diversity of the Legal Profession

In August 2006 the California State Bar's Diversity Pipeline Task Force reported that the most recent State Bar membership survey, conducted in 2001, shows that only 17 percent of California lawyers are persons of color, and other groups, such as women lawyers and attorneys with disabilities, are also not well represented when compared to California's overall demographics. The same report noted additional disparities between the numbers of diverse attorneys and judges compared with the statewide population. Law schools are a critical part of the diversity pipeline, and the task force report indicated that "the numbers of diverse students entering the law school pipeline are dwindling."

4. *Should the board play a role in helping to ensure that there is better minority representation in the legal profession? Should there be additional efforts to help increase the diversity of the law school pipeline into the profession?*

Legal Education Opportunity Program

For 30 years Hastings has operated the Legal Education Opportunity Program (LEOP) to help bring diversity to Hastings' student body. Under this program there is an alternative admission policy for evaluating an applicant's potential for the study of law, taking into account other considerations such as nontraditional backgrounds and personal challenges affecting academic preparation. Approximately 20 percent of each entering class is comprised of students admitted under this program. Once admitted, LEOP offers special services to help these students succeed in law school, such as weekly small group sessions, one-on-one tutoring, and practice exams.

5. *What kind of support has Hastings given to LEOP students to help ensure their success in law school and after graduation? Has the criteria for admission under the LEOP program changed in recent years?*

Thank you for taking the time to answer these questions. Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Sincerely,



DON PERATA

DP:SK

cc: Hastings College of Law Board of Directors

February 26, 2008

VIA FACSIMILE & COURIER

916-445-0596

Ms. Nettie Sabelhous
Appointments Director
Senate Rules Committee
California Legislative
State Capitol, Room 420
Sacramento, CA 95814-4900

Re: March 12, 2008 Confirmation Hearing

Dear Ms. Sabelhous:

This is in response to the letter of February 5, 2008 from Senator Don Perata, Chairman of the Senate Rules Committee (the "Committee") relating to the hearing to be held by the Committee on March 12, 2008 to confirm my appointment as a member of the Board of Directors of Hastings College of Law. I understand I am not required to appear at the hearing; however, in the event you, Chairman Perata or any member of the Committee wishes me to appear, please so advise and I will make arrangements to attend the hearing.

Statement of Economic Interests

In accordance with the Committee's request, I enclose a copy of my completed and updated Statement of Economic Interests (FPPC Form 700) for the 2007 calendar year. The original of the Statement has been concurrently filed with the Office of General Counsel, Hastings College of Law, as required by law. If any additional information relating to the statement is needed, please contact me at 650-320-4740 or dbradley@wsgr.com.

Responses to Questions of the Committee

The balance of this letter addresses the questions posed in Senator Perata's February 5, 2008 letter. Before responding to those questions, particularly those relating to my goals as a member of the Hastings Board of Directors, I believe it will be helpful to provide brief commentary on my personal background.

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Senate Rules Committee

MAR 04 2008

Appointments

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To-SENATE RULES COMMITTEE Page 002

Ms. Nettie Sahelhou
February 26, 2008
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I was raised in Los Angeles in a middle-class family where both of my parents worked full-time. I had the good fortune to attend public schools in Los Angeles at a time when they were among the best in the United States, and I had tremendous support from my family, teachers and others to excel in academics, sports and extracurricular activities. I was the first in our extended family to attend college. Through scholarships and other financial aid, summer jobs, and the sacrifice of my parents, I had the privilege of attending Dartmouth College, a small private college in New Hampshire dedicated to undergraduate liberal arts education. Upon graduation, I knew that I would have to support myself through law school and felt very fortunate to be admitted to Hastings in the Class of 1968. At the time, Hastings was one of the top law schools in the country, had a very distinguished faculty (particularly through the so-called "65 Club" of eminent professors from all over the country), and, most important to me at the time, had annual tuition and fees of, as best I can recall, less than \$300. My experiences at Dartmouth and Hastings provided the platform for what I regard as a successful and rewarding career as a lawyer.

In the course of my professional career, I had the privilege of becoming a partner at Pillsbury Madison & Sutro, one of the preminent law firms in California. I have also had the unique opportunity to join Wilson Sonsini Goodrich & Rosati as a partner in 1984 and become part of a team of young lawyers committed to building a great law firm serving Silicon Valley and the technology industry throughout the world. As I look back, I realize I am deeply indebted to Hastings for not only providing a great legal education, but also opening doors and creating opportunities which have made a successful career possible. When Governor Schwarzenegger offered me an appointment to the Hastings Board of Directors, I realized this was a chance to serve Hastings and repay that debt in some small measure, and I embraced that opportunity. Assuming the Committee confirms my appointment, I look forward to serving on the Hastings Board of Directors for the 11 plus years remaining in my term.

Goals

My primary goal in serving as a member of the Hastings Board of Directors is to serve the institution in any way I can to preserve, protect and enhance its reputation as a public educational institution affiliated with the University of California and dedicated to providing a legal education of the highest quality to Californians and students from across the United States and around the world. Hastings is at a crossroads and faces many challenges in carrying out its mission, particularly in light of the decline in the level of annual funding and other financial support from the State of California. I hope that with commitment and hard work, I will be able to help guide Hastings on a path to financial stability and to restoration of its rightful position among America's great law schools.

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Ms. Nettie Sabelhous
February 26, 2008
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The specific goals I currently see as important to achieve during my tenure on the Board of Directors are as follows:

First, to restore Hastings to its position as one of the top law schools in America. Due in large part to resource constraints, Hastings has declined in its standing among American law schools and currently sits in 36th position. With the leadership of Nell Newton, the new Chancellor and Dean, and the support of the State of California, the alumni of Hastings, and other sources of public assistance and private philanthropy, I am confident that this goal can be accomplished over the next decade.

Second, to materially improve student-faculty ratios and expand the curriculum offered by Hastings to assure the delivery of a superior legal education to students both at the undergraduate (J.D.) and graduate (L.L.M.) levels. Due principally to resource constraints, Hastings' student-faculty ratio stands at 166th out of 190 accredited law schools in America. Hastings has an outstanding faculty; however, it needs to augment its faculty in order to reduce the size of classes and enable faculty to offer seminars and other specialty courses desired by the students. This initiative is already underway, but will require Hastings to be successful in initiatives designed to increase its endowment and other financial resources.

Third, to assure that Hastings is not only financially stable, but also has the endowment and other financial resources necessary to carry out its mission of providing a superior legal education to its students. With the unfortunate decline in the level of financial support which the State of California has been able to provide to Hastings, this has become a very significant challenge for Hastings, particularly in light of its unique status as a standalone law school not directly connected to a University of California undergraduate campus. To develop the necessary revenue, endowment and other financial resources, the Board of Directors, together with the Chancellor and Dean and her very able faculty and staff, will need to reach out to Hastings alumni, corporations, foundations, and other sources of public and private philanthropy to support its operations and academic initiatives. I am committed to actively participating in these efforts in every way I can.

Fourth, to assure that students desiring to attend Hastings are financially able to do so. Given the decline in the level of support available from the State, tuition and fees charged to students have become a primary source of funding for the annual operating expenses of Hastings. As a result, increases in the level of tuition and fees have been necessary. Unless the level of State funding is stabilized or enhanced, or the funding obtained through other public and private sources substantially increases, the Board of Directors will face continuing pressure in this regard. This will require the Board and the entire Hastings community to seek to expand funding available to students through scholarships and other sources of financial aid.

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Ms. Nettie Sabelhous
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I am sure that as I gain experience and knowledge through service on the Hastings Board of Directors, I will see other pressing needs of Hastings that need to be addressed which will further develop and refine my specific goals.

Information Flow

Pending confirmation, I have been serving on the Hastings Board of Directors since June 2007. During this period, I have learned a great deal about the academic programs and operations of Hastings and the challenges it faces. The Chancellor and Dean and her able staff make sure that the Board of Directors is fully informed about all facets of the operations of Hastings and possesses all of the data and other information necessary to establish strategic plans and policies and make well grounded decisions. I am very confident that any information I need to fulfill my duties and responsibilities as a director will be promptly and fully provided.

Student Fees and Financial Aid

The Board of Directors considered with great care its decision to increase tuition and fees for the 2008-2009 academic year to \$28,500. It was cognizant of the additional burden this would place on students and was assured that the Chancellor and Dean and her staff were communicating with the students about the reasons for this 18 percent increase throughout the decision making process. The student body supported this increase knowing that a substantial part of this increase would be used to hire additional faculty, expand curriculum, and supplement funding for scholarships, grants, and financial aid.

The entire Hastings community, including the Board of Directors and the Chancellor and Dean, is well aware of the continuing need to expand as much as possible the sources of financial aid available to Hastings students. Hastings has six scholarship programs awarding nearly \$500,000 a year on the basis of financial need and academic merit; it also has a grant program awarding in excess of \$5,000,000 annually in grants on the basis of financial need. In addition, Hastings has a variety of loan programs available to students, including several federal programs (Perkins, Stafford and Graduate Plus), the James O'Neill loan program, and credit-based alternative loan programs. Finally, Hastings has the Public Interest Career Assistance Program (PICAP) which is a loan repayment assistance program available to graduates pursuing legal careers in the public and nonprofit sectors. At present, this program has only limited funding available, but Hastings is endeavoring to modestly expand the funding for this program.

The Hastings community, including the Board of Directors, is vigilant in seeking out opportunities to expand its loan programs and other financial aid resources. In addition, I believe the Board of Directors has a responsibility to seek to develop funding for endowed scholarships

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Ms. Nettie Sabelhous
February 26, 2008
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and professorships. This will no doubt be part of the fund-raising activities of Hastings as it more aggressively reaches out to alumni and other sources of private philanthropy to seek additional financial support.

Diversity of the Legal Profession

As a public institution, the Board of Directors is responsible to assure that it is open to and accessible by all students who are committed to and show promise in pursuing a career in the legal profession. I personally recognize that diversity is not only an important objective for the legal profession but also is an important part of enriching the law school experience and providing the foundation for achieving a higher level of diversity in the profession as a whole. Hastings has, in my view, done well in bringing women, minorities, and disabled students into the student body. Over 30 percent of the entering class in the 2006-2007 academic year were minorities. That said, there is no doubt that Hastings can do more here, particularly in light of the fact that only about 10 percent of this entering class were so-called underrepresented minorities. I believe that the most important things Hastings can do are (1) improve its national standing and expand its faculty and curriculum and (2) expand its scholarships and other financial aid resources. This is based on my belief that women, minorities and others seeking a career in the legal profession are going to select the best law school to which they can be admitted and can afford to attend.

Legal Education Opportunity Program

As noted, the LEOP program has existed at Hastings for thirty years. I have not had the opportunity during the time I have served on the Board of Directors to undertake an in-depth study of how this program has functioned over the years. However, based on the brief investigation I undertook of this program, I believe I can make certain observations about the LEOP program that may be of value. I do know that it is regarded as a very successful program for identifying and evaluating the potential for success of students from nontraditional backgrounds, and that it has developed many prominent and successful California attorneys engaged in public service, private practice, and business. It is evident that the academic faculty and staff at Hastings commit substantial resources to the students selected to participate in the LEOP program through an intensive, ongoing cooperative learning environment designed to create the skills necessary to succeed in law school and in the legal profession. The fact that approximately 20 percent of the students in each entering class participate in the LEOP program speaks volumes, in my mind, to the commitment of the faculty and staff to make this program successful. This commitment of time and resources supports LEOP students through their three years in law school and their preparation for taking the bar examination. I am not aware that the

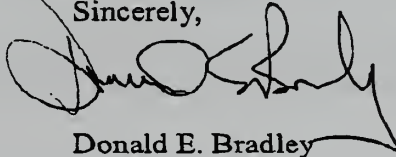
Ms. Nettie Sabelhous
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criteria for admission to Hastings under the LEOP program have changed in any material fashion in recent years.

As is evident from the foregoing, the LEOP program is a subject that will require further study on my part, but there is no doubt it is an important part of the educational opportunities offered by Hastings.

I hope that you will find this letter, and in particular my responses to your questions, to be of value in connection with consideration of my confirmation by the Committee. While I have learned a great deal about the Hastings of today in the last 9 months, there remains much to learn and much to accomplish in overcoming the challenges faced by the Board of Directors. I am committed to serve and assist in continuing to build one of the great public educational institutions in the State of California. If you have any additional questions or desire additional information, please do not hesitate to contact me.

Sincerely,



Donald E. Bradley

Enclosures

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Date		Description		Amount	
1900	Jan 1	Balance		100.00	
1900	Jan 15	Received from John Doe		50.00	
1900	Feb 1	Received from John Doe		25.00	
1900	Feb 15	Received from John Doe		10.00	
1900	Mar 1	Received from John Doe		75.00	
1900	Mar 15	Received from John Doe		30.00	
1900	Apr 1	Received from John Doe		15.00	
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1900	Nov 15	Received from John Doe		40.00	
1900	Dec 1	Received from John Doe		15.00	
1900	Dec 15	Received from John Doe		60.00	
1900	Total			1000.00	

March 11, 2008

VIA FACSIMILE

The Honorable Senator Don Perata
Senate Rules Committee
State Capitol, Rom 420
Sacramento, CA 95814

Dear Senator Perata:

In response to your February 5, 2008 letter regarding the confirmation hearing for my appointment to the Board of Directors of Hastings College of the Law. As requested, I forwarded an updated Form 700, Statement of Economic Interest last week. Additionally, I am providing responses to the following questions as requested.

1. **Please provide a brief statement of goals you hope to accomplish while serving on the Hastings College of Law Board of Directors. How will you measure your success?**

As a Director of Hastings College of Law, I hope to accomplish the following:

- a. Provide support for Hastings' continued growth and effectiveness in advancing legal education as a vital regional and national law school center.
- b. Provide support to Hastings' leadership (management and faculty leaders) to advance the key goals and objectives of the current strategic plan.
- c. Work with Board of Directors and Hastings' management team to ensure that as interest and annual applications increase, the Board and Hastings administration continues to monitor, evaluate and refine the admissions process to ensure that Hastings continues to attract and admit talented candidates from diverse backgrounds.
- d. Support continued fundraising efforts and collaborative partnerships with other institutions (e.g., UC Regents).

Senate Rules Committee

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Senator Don Perata

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2. **Do you believe you receive the information you need to provide policy direction? Is there any additional information that would be useful for you?**

Yes, to date, I believe I have received the information I need to provide policy direction in my role as a Director.

3. **Beyond the loan program, should the board take other action to keep Hastings affordable to low- and moderate-income students?**

Hastings should continue to develop and work to raise funds to expand scholarship opportunities.

4. **Should the board play a role in helping to ensure that there is better minority representation in the legal profession? Should there be additional efforts to help increase the diversity of the law school pipeline into the profession?**

Yes, the Board has an important role in helping to ensure that there is better minority representation in the legal profession. I have advised the Chancellor and Dean that I would like to focus part of my time working with the Dean and staff to review the current admissions process to ensure that Hastings continues to play a key role in advancing diversity in the legal profession.

5. **What kind of support has Hastings given to LEOP students to help ensure their success in law school and after graduation?**

Hastings has a robust and well-developed LEOP program to support LEOP students' success at Hastings. However, it is my view that staffing and resource support for LEOP should be enhanced to ensure its continued effectiveness as a critical resource for LEOP students.

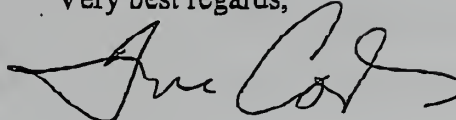
Has the criteria for admission under the LEOP program changed in recent years?

Dean Newton advised there have been changes in LEOP administration and changes in LEOP's role in the admission's process. As noted above, I have raised concerns regarding some of these changes and the potential impact on diversity in admissions at Hastings.

Senator Don Perata
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Please let me know if you would like any additional information.

Very best regards,

A handwritten signature in black ink, appearing to read "Tina Combs", with a stylized, flowing script.

Tina Combs

TW:dm

Cc: Nettie Sabelhaus
Rules Committee Appointments Director



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February 25, 2008

Our File Number: 0100-092341

VIA FACSIMILE AND U.S. MAIL

The Honorable Don Perata
Chairman, Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814-4900

Rc: Hastings College of Law Board of Directors Appointment

Dear Senator Perata:

I am responding to the questions posed in your letter of February 5, 2008.

1. Please provide a brief statement of goals you hope to accomplish while serving on the Hastings College of Law Board of Directors. How will you measure your success?

As a Director on the Hastings College of Law Board of Directors, I hope to guide the College administration in making fiscally sound decisions regarding the future of the school. Part of this will mean working to encourage alumni giving by supporting the Dean's outreach efforts in this area. In addition, the College is embarking on a retail/garage construction project that will bring revenue to the College that can be used to provide loans and other support to new faculty members in an effort to attract the best and brightest to teach at Hastings. I will measure success by increase in faculty members to the school from areas that have traditionally found it too expensive to move to the Bay Area and by the Dean's efforts in increasing alumni donations.

2. Do you believe you receive the information you need to provide policy direction? Is there any additional information that would be useful to you?

In the few months that I have been receiving information from the College, I have found it to be thorough and detailed. I have not identified any additional information at this time that would be necessary to perform my duties as a Director in providing policy guidance.

Senate Rules Committee

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3. Beyond the loan program, should the board take other action to keep Hastings affordable to low- and moderate-income students?

I am cognizant of the extraordinary jump in fees for professional students in California. In an effort to help keep Hastings affordable to low- and moderate-income students, Hastings has, in addition to loans, grants which are awarded to students with high financial need and do not have to be repaid. Generally, they range from \$5,000 to \$8,500 and average about \$7,500. The Board should consider whether it is feasible to solicit alumni donations to increase grants and scholarships for low- to moderate-income students. Hastings incurs costs for general support services (i.e., security, health services, fiscal, risk management, registrar's office, financial aid, human resources) that are not incurred at the law school level within the UC system. Hastings' status as a stand-alone, independent institution made the absorption of significant reductions in State General Fund support more challenging because of the College's small financial base, limited economies of scale, and a cost structure that did not provide substantial flexibility in reducing cost without a direct and adverse impact on the academic program. The Board should work with the administration to help the legislature understand and weigh the needs of Hastings' students when making decisions on the education budget while at the same time encouraging alumni donations targeted to grants/scholarships for low- and moderate-income students.

4. Should the board play a role in helping to ensure that there is better minority representation in the legal profession? Should there be additional efforts to help increase the diversity of the law school pipeline into the profession?

Hastings has a remarkable history of encouraging diversity, and its statistics reflect its successes. Hastings' diversity exceeds the figures provided in the State Bar membership survey. In the 2006-2007 Hastings first year class, I am advised by the Dean that 31% of the admittees were students of color. Women comprise 52% of the first year class. When a disabled student enters the College, the College makes reasonable accommodation but since a disability is private information protected by law, the College does not track disabled students to my knowledge. The LEOP program, described below, has been a successful program at Hastings for thirty years bringing increased diversity to its student population. It is admired by other law schools. I will recommend that Hastings increase its efforts to help the LEOP students pass the Bar exam, in an effort to increase the diversity of the law school pipeline into the profession.

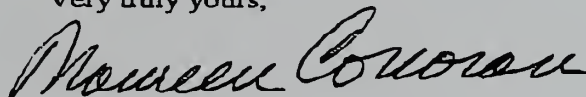
5. What kind of support has Hastings given to LEOP students to help ensure their success in law school and after graduation? Has the criteria for admission under the LEOP program changed in recent years?

The LEOP program is decades old and is strongly supported by the Hastings faculty. It provides students from diverse backgrounds an opportunity for success. As the

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Hastings website describes, "[i]n addition to completing the general application for admission, LEOP candidates must include detailed information about the adversity they faced - which may be geographic, linguistic, or social in nature - and its impact on their academic preparation. Applicants are also encouraged to provide specific information about the efforts they have made to meet and/or overcome these challenges. This information may be presented as part of the applicant's personal statement or it may be provided in a supplemental essay." Once admitted, the students are provided with a variety of support systems to help them succeed. To summarize from the material provided to the Board and on the website, LEOP conducts an intense, weeklong mandatory orientation prior to the beginning of classes to introduce the students to legal analysis. Students are then provided seven to ten hours a week of the activities, including four hours for small group sessions, three hours for Saturday simulated exams, and the remaining time for LEOP special workshops and teaching assistant office hours. This time is in addition to regular class and study time. Beginning the fourth week of each semester, small weekly group sessions are held to develop students' independent learning strategies using a skills-based approach. Eight Saturdays in each semester LEOP students are offered simulated exam workshops. During these workshops, students write four practice exams and receive written evaluations of their knowledge and exam-taking techniques. LEOP also offers individual tutoring and academic counseling. Workshops on outlining, examination strategies, legal writing, and legal analysis also are held throughout the year. For second and third year LEOP students, small group sessions are conducted in some second-year courses. Each session uses problem solving as the means for reviewing substantive law and legal analysis. Finally, for its graduating students, LEOP offers a supplemental bar review course, Bar None. The program emphasizes study techniques and exam-taking skills and practice, and provides constructive feedback. Whether the LEOP program's criteria for admission has changed in recent years is not a question that has been raised at a board meeting, but it can be directed to the Dean or the Director of Admissions. However, any admission criteria would have to comply with Proposition 209.

Very truly yours,



Maureen E. Corcoran

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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26 Evelyn J. Mizak
27 Shorthand Reporter
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APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

SUSAN LAPSLEY, Director
Office of Administrative Law

FRANK BRASS, Member
Workers' Compensation Appeals Board

SENATOR JOHN BURTON

JAMES CUNEO, Member
Workers' Compensation Appeals Board

G. MICHAEL SUTTON, Member
Fish and Game Commission

SENATOR ABEL MALDONADO

1 ANN NOTTHOFF
Natural Resources Defense Council

2 RICHARD ROGERS, President
3 California State Fish and Game Commission

4 JERRY KARNOW
5 California Fish and Game Wardens Association

6 KIM DELFINO, California Director
Defenders of Wildlife

7 VIRGINIA HANDLEY
8 Animal Switchboard

9 ERIC S. OSEN, Member
10 Board of Pilot Commissioners for the Bays of San
Francisco, San Pablo and Suisun

11 JAMES B. TATE, Member
12 Board of Pilot Commissioners for the Bays of San
13 Francisco, San Pablo and Suisun

14 MIKE JACOB
Pacific Merchant Shipping Association

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--ooOoo--

CHAIRMAN PERATA: Susan Lapsley, would you like to come forward? We'll punish you for awhile.

MS. LAPSLEY: There's no guilt by marriage, just for the record.

CHAIRMAN PERATA: I heard that. I don't believe it, but I heard it.

Welcome.

MS. LAPSLEY: Thank you.

And thank you, Mr. Chairman and Members of the Committee.

I has been my honor to have served the state and people of California in what I believe to be a very important capacity over the last eleven months. The Office of Administrative Law plays a very important role in safeguarding the work that you do here in the Legislature. OAL acts as an independent check-and-balance on state agencies to ensure, among other things, that those state agencies are acting within the authority that you have vested with them.

Also fundamental to OAL's role is the protection of the public's right, vitally important, to participation in the rule-making process. My top priority as Director of OAL have been to modernize, educate and improve public access. I've worked closely with the professional staff at OAL who are very committed to their jobs there, and we've taken several steps to further these goals.

For example with respect to modernization, we've

1 converted to a brand-new data base and have revamped regularly
2 used forms and check lists, some of which hadn't been revised in
3 over ten years.

4 With respect to education, we've developed and
5 conducted new training courses, reaching out to various sectors
6 rather than just focusing on state agencies. Explaining the
7 rule-making process is key to education, and I have been
8 fortunate to be able to discuss the process with very large
9 groups, including the California Professional Firefighters at
10 their workshop in January, and we'll also be addressing the
11 Women's Policy Institute in May.

12 And finally, with respect to improving public
13 access, we have revamped OAL's web site, adding substance while
14 still maintaining a user-friendly site.

15 And I believe that you have information with
16 respect to my professional experience as well as additional
17 information relative to these goals.

18 At this time, if you have any questions I'd be
19 happy to answer them.

20 SENATOR DUTTON: I guess what I'd like to just
21 get clear in my mind is, when you're reviewing proposed
22 regulations, does your office take a look at whether or not a
23 particular department might be overstepping the authority within
24 the legislation that comes out of the Legislature and then
25 signed by the Governor?

26 MS. LAPSLEY: And as I said, thank you, Senator,
27 the -- very important in our role is assuring that they're
28 acting within their authority. The APA sets out six standards

1 by which we can evaluate proposed rule-makings, in addition to
2 the -- in addition to the procedural requirements, and authority
3 is the very one that we look at.

4 I could go through the list: authority,
5 necessity, nonduplication, consistency, those things. But
6 authority, yes, is what we look at and make -- making sure that
7 they stay within their parameters and the authority that you've
8 vested with them.

9 SENATOR DUTTON: So, if a bill would come out
10 that was specifying engines in automobiles, but then the
11 department then would expand that to engines in motorcycles,
12 would that be something that you would draw to their attention?
13 Is that just too minor a difference?

14 MS. LAPSLEY: No, no, no. It's -- we have -- the
15 14 attorneys that work for me, they are nit-pickers.

16 And yes, that's something that we do look at, and
17 we do draw to their attention.

18 CHAIRMAN PERATA: Thank you.

19 [Inaudible] We keep seeing more and more of
20 those. Do you routinely review them?

21 MS. LAPSLEY: We do review them.

22 CHAIRMAN PERATA: Often?

23 MS. LAPSLEY: We do. And to the extent that they
24 comply with the current statutes and are consistent with the
25 current statutes, we comply with them.

26 CHAIRMAN PERATA: What happens if they don't?

27 MS. LAPSLEY: We -- sorry, let me step back.

28 Do we review them as we do proposed rule-makings?

1 No, no. I'm sorry; I misunderstood your question.

2 We review them as to what is being issued by the
3 Governor. And to the extent that they relate to and govern OAL,
4 then we look at them to see whether or not we comply.

5 I'm sorry, I misunderstood.

6 CHAIRMAN PERATA: I wanted to mention that
7 Senator McPherson sent a very nice letter on your behalf.

8 MS. LAPSLEY: Oh, good. I'm glad that you
9 received it.

10 CHAIRMAN PERATA: We read it, too.

11 [Laughter.]

12 CHAIRMAN PERATA: That's the one thing we could
13 do in the last two days.

14 MS. LAPSLEY: I appreciate it.

15 CHAIRMAN PERATA: Would anybody like to speak in
16 favor of the confirmation? Anybody opposed?

17 So you have any family?

18 MS. LAPSLEY: I do. I am honored to have my
19 husband, Rob, here which some of you may or may not know, and
20 our five-year-old daughter, Kylie.

21 CHAIRMAN PERATA: Kylie, there she is.

22 MS. LAPSLEY: In addition my parents, my father's
23 a former Speaker in Nevada. So, my parents are in the back row.

24 CHAIRMAN PERATA: Oh, welcome.

25 MS. LAPSLEY: I didn't bring our 16-month-old
26 because he knows only one word, and that's Ma. And he would
27 have been screaming in the back, "Ma, Ma, Ma!"

28 CHAIRMAN PERATA: That would have moved this even

1 faster.

2 MS. LAPSLEY: It would have.

3 [Laughter.]

4 CHAIRMAN PERATA: We have a motion to approve.
5 Please call the roll.

6 SECRETARY WEBB: Dutton.

7 SENATOR DUTTON: Aye.

8 SECRETARY WEBB: Dutton Aye. Padilla.

9 SENATOR PADILLA: Aye.

10 SECRETARY WEBB: Padilla Aye. Ashburn.

11 SENATOR ASHBURN: Aye.

12 SECRETARY WEBB: Ashburn Aye. Perata.

13 CHAIRMAN PERATA: Aye.

14 SECRETARY WEBB: Perata Aye. Four to zero.

15 CHAIRMAN PERATA: Congratulations.

16 MS. LAPSLEY: Thank you. I appreciate it.

17 [Thereafter, SENATOR CEDILLO

18 voted Aye, making the final

19 vote 5-0 for confirmation.]

20 CHAIRMAN PERATA: You may want to stay for John
21 Burton.

22 Senator Burton, please come forward with
23 Mr. Brass and Mr. Cuneo.

24 Welcome home.

25 SENATOR BURTON: Thank you very much.

26 Mr. Chairman, Members of the Committee, Senator
27 Ashburn, it's my pleasure. I'm here to introduce to you and ask
28 you to support the confirmation for Frank Brass to a second term

1 at the Workers' Comp Appeals Board.

2 I have known Frank since I was nine years old,
3 and I guess he was ten. We've been -- he is known throughout
4 San Francisco as my oldest but not necessarily my best friend.

5 His background in comp, he has worked -- started
6 off working for a labor law firm, worked for private insurers,
7 then went back and had his own plaintiff's or applicant's law
8 practice.

9 He has been, I think, a fair -- better than fair
10 member of the board. There's been some question by some of the
11 applicants' attorneys about some of the board's rulings, but
12 these were rulings that, unfortunately, comported with the law
13 that we passed in the State Legislature, and then with
14 regulations that interpreted that law that some people had
15 questions about, but they were the laws and the regs by which
16 the Comp Board had to act.

17 I think he will continue to be a very good member
18 of that board. He will be fair-minded. He'll be fair-handed.
19 As I say, he's worked both for applicant attorneys as well as
20 the defense industry and has support both among members of the
21 applicants bar as well members of the defense bar.

22 I would thank you for the opportunity of being
23 here and encourage you to give -- give him an Aye vote on his
24 confirmation.

25 Thank you, Mr. Chairman.

26 MR. BRASS: Good afternoon, Mr. Chairman and
27 Members.

28 CHAIRMAN PERATA: Good afternoon.

1 MR. BRASS: I'm not going to say much after that.

2 But I would like to take this opportunity to
3 thank Governor Schwarzenegger for this reappointment to the
4 board.

5 As John noted, before appointment to the board in
6 2001, I specialized in the practice of workers' compensation law
7 for 35 years, and during that time I represented injured workers
8 as well as insurers and employers.

9 This has been a great opportunity for me to pay
10 back to my native state, and to pay back to the system from
11 which I've live for these years.

12 Thank you very much.

13 CHAIRMAN PERATA: Thank you, sir.

14 Mr. Cuneo.

15 MR. CUNEO: Thank you, Senator.

16 My name is Jim Cuneo, and I'm Frank's best
17 friend.

18 [Laughter.]

19 CHAIRMAN PERATA: And I love the bread sticks
20 that your family makes.

21 MR. CUNEO: And I'm hanging on him all day.

22 But I, too, have served at the Workers'
23 Compensation Appeals Board since 2001. We were nice enough that
24 Governor Schwarzenegger reappointed us this year to serve
25 another term.

26 Before I served with the board, I was a defense
27 attorney mainly. I have 35 years' experience in workers'
28 compensation law also.

1 And I think it's an honor to serve this state,
2 and I'm looking forward to serve the state again.

3 And I'll be glad to answer any questions you
4 have.

5 First of all, I'd like to do one thing for Frank
6 and I both. We're reappointees, and as such, we owe a lot to a
7 lot of people. But we especially owe a thanks to our staff. We
8 have the most wonderful staff at the Workers' Compensation
9 Appeals Board who do the heavy lifting for us. We sign our
10 names, and they do a lot of work, a lot of excellent work.
11 They're a wonderful group of people. We would not be here today
12 without them. So, I wanted to recognize them, and Frank wants
13 to recognize them also.

14 MR. BRASS: I complete concur. The deputy
15 commissioners, the staff at the Workers' Compensation Appeals
16 Board, they truly are the best group of people I've ever worked
17 with. They're wonderful people as human beings, workers. It's
18 been a great pleasure to work there.

19 Thank you.

20 MR. CUNEO: I would mention their names, but I'd
21 leave somebody out and I don't want to do that.

22 CHAIRMAN PERATA: Yes, you don't want to do that.

23 That's quite nice of you to say that, and I'm
24 sure it's true.

25 We have in the next couple of months the Director
26 coming before us. I don't think it's much of a secret, and I
27 think what John was alluding to in his remarks, we were a little
28 surprised that the law was implemented in the manner in which it

1 was. Everybody said that it would not be punitive to workers,
2 but it didn't apparently turn out that way.

3 We did admit, I guess in retrospect, a couple of
4 things. And I don't have any doubts about you're trying to
5 conform with the law.

6 But we left out specific dates. How has that
7 affected what you do?

8 MR. CUNEO: Well, Senator, it probably caused a
9 lot of unnecessary litigation, which is really wasted money,
10 the last thing we want to do in the system. There's too much
11 litigation, in my opinion, anyway.

12 What happened was, to give you an example, we
13 have two permanent disability rating schedules. We have the old
14 one and the new one. And it's more advantageous for one party
15 in the old versus the new. So, lawyers being lawyers, litigate
16 which schedule should apply to the injury date.

17 We weren't given a definite date for some of the
18 injuries. We were given trigger points that are based on facts,
19 which cause for interpretation of facts. We have opinions going
20 every-which-way. The Court of Appeals have opinions going
21 every-which-way.

22 It could have been avoided if you would have just
23 simply said, "Starting January 1," whatever year, "the new
24 permanent disability rating schedule would apply."

25 And that's always happened in the past. Our
26 experience in the past has been, any legislation we've gotten in
27 workers' comp said: Benefits raised on this date; new schedule
28 on this date.

1 This time for some reason it wasn't, and it
2 really caused probably a year of two or unnecessary litigation.
3 And boy, is that wasted money. It doesn't help anybody.
4 Defense attorneys, maybe.

5 CHAIRMAN PERATA: That begs the question whether
6 it was inadvertent or intentional, but nobody here can remember.

7 How would you view the benefits?

8 MR. BRASS: Today?

9 CHAIRMAN PERATA: Today, in the new schedule.

10 MR. BRASS: Well, the temporary disability
11 limitation, the original 104 weeks which the Legislature has
12 changed a little bit, but that's difficult. That's the salary
13 substitute for an injured worker.

14 And if a person is seriously injured and
15 receiving medical care, healing from the effects of an
16 industrial injury, putting a limit on that, where does the
17 person turn? You know, you have someone with no salary
18 substitute that's been -- that's healing from the effects of an
19 industrial injury, which is probably -- which was obviously a
20 serious injury to keep someone off work for two years.

21 You've done something about that, but I believe
22 even more should be done.

23 From what I understand, which is anecdotal, there
24 are figures that a permanent disability has dropped from 35 to
25 65 percent, and that's just too much in my opinion. I don't
26 believe that the Legislature nor the Governor intended to amend
27 the bill so that it's off the backs of injured workers.

28 There are many goods things. I'm in favor of the

1 reforms. They had to be done. They were obvious. The costs
2 were running wild.

3 But I would think -- I believe that runaway
4 medical costs, which affect the nation not just California's
5 workers' compensation system, fraudulent claims, there are many
6 areas where you -- and cutting down on forensic examinations has
7 helped, too. And you've limited penalties, which also I believe
8 is a good thing. And there's real savings there.

9 But whether the salary substitute should be
10 limited, whether seriously injured workers that have no place to
11 turn, doesn't get the same -- doesn't get decent compensation
12 for residual disability bothers me.

13 CHAIRMAN PERATA: Thank you. I appreciate your
14 candor.

15 MR. CUNEO: Yeah, I've got to second what Frank
16 said.

17 With regard to the temporary disability issue, I
18 guess what bothers me is, it doesn't comport with reality as we
19 sort of see it on a day-to-day basis.

20 Most people injured on the job try to go back to
21 work. And they'll go back, and they'll try to work, then
22 they'll go off again. And they'll go back and go off again,
23 then eventually may have to have that back surgery. That could
24 be a year or two down the line.

25 But all of a sudden, they're being cut off
26 temporary disability. Where do they go?

27 So, I think it -- it just doesn't -- it doesn't
28 comport with the real world, to put an absolute limit.

1 Up to 1979, the law had a limitation of years
2 limitative injury, 240 weeks of temporary total disability,
3 which seemed to work fine, which seemed to be a good idea.

4 You've loosened it up. You allow five years from
5 the date of injury for 104 weeks, but I don't know if that's
6 answering the working person's problem right now with a person
7 that wants to get back to work, goes off of work, forestalls
8 that surgery because who wants it? And then, a year or two down
9 the line, needs to have some money to buy groceries and pay the
10 rent.

11 We're talking their grocery and rent money.
12 That's what I'm talking about.

13 CHAIRMAN PERATA: Yes, thank you.

14 Do both of you have family here?

15 MR. BRASS: Yes.

16 MR. CUNEO: Yes.

17 CHAIRMAN PERATA: Besides John Burton, I mean.

18 [Laughter.]

19 MR. BRASS: My wife, Charlotte Palacio Brass.

20 CHAIRMAN PERATA: Do you both have the same wife?

21 MR. BRASS: No, I asked her if she was going to
22 stand. I guess she isn't.

23 [Laughter.]

24 CHAIRMAN PERATA: I was a little confused there
25 for a second.

26 MR. CUNEO: I have my wife, Gianna, here. She's
27 of Armenian descent. So, your vote meant a lot to her. We
28 thank you for your vote, and we enjoyed listening to that.

1 CHAIRMAN PERATA: You're welcome.

2 MR. CUNEO: And my son, Jeffrey, is here.

3 Jeffrey is presently with the Public Defender's Office. His
4 specialty is juvenile law. He has an interest in representing
5 youngsters. He's on the Sacramento Children's Commission and
6 reports to the Sacramento Board of Supervisors each year about
7 the status of children in Sacramento County.

8 Our daughter is in Washington, D.C. She couldn't
9 make it out until tomorrow. She was working for HUD as a
10 presidential fellow. She has a master's in urban planning from
11 Cornell. She's now with the Urban Land Institute, a private
12 think-tank, where she is Director to Terwilliger Workforce
13 Program, which is a program in Washington, D.C., northern
14 Virginia, and Maryland, designed to encourage the building of
15 housing for service people -- teachers, social workers -- who
16 can live in the community where they work. So, that's what
17 she's working on right now.

18 CHAIRMAN PERATA: You should bring her to
19 California.

20 Thank you. Welcome to the families of both of
21 you.

22 Anyone here who'd like to speak in support?
23 Anybody in opposition?

24 SENATOR DUTTON: Just a quick question.

25 First of all, I think you're both more than
26 qualified, and I do plan to vote for you.

27 Just from an informational standpoint, under
28 workers' compensation we have disability and then also we have

1 state disability, and I know they cover a variety of things.

2 Do you think that we should be looking at -- once
3 in a while we get small business people, particularly, who want
4 to look at some kind of a 24/7 type situation. They're
5 providing health, and you've already got state disability,
6 workers' comp.

7 Is there a way that those maybe should be looked
8 upon with the disability portion, that they should be looking at
9 some sort of combination or something?

10 MR. CUNEO: Well, if you're talking about
11 universal health, that's beyond me.

12 SENATOR DUTTON: Not universal health. No, no,
13 no. I'm not talking about universal health.

14 I'm talking about, employers have workers' comp
15 insurance, and then they also -- generally a lot of times
16 they'll have health.

17 CHAIRMAN PERATA: You're always trying to sneak
18 that universal health in on it.

19 [Laughter.]

20 SENATOR DUTTON: So, I'm just curious about it.
21 I'm serious about the state disability.

22 MR. CUNEO: Yes, that's -- that's paid for by the
23 worker. State disability's a percentage, as I understand it.
24 The worker pays into a special fund. And comp, of course, is
25 paid for by the employer, so you need to have some melding of
26 different interests, I think, to get that going.

27 SENATOR DUTTON: Injured workers, can they get
28 disability under workers' comp and state disability?

1 MR. CUNEO: No, no. You can't get both. You
2 have to pay back one or the other system, because state
3 disability's designed to pay for injuries or illness off the
4 job. On the job, it's comp.

5 So, you can pick up state disability for a time
6 while your comp -- your comp claim is being decided by the
7 insurance company. That's what often happens.

8 SENATOR DUTTON: Oh, okay.

9 MR. CUNEO: But then, the carrier has to pay back
10 the state first.

11 SENATOR DUTTON: Okay, I got you. Thank you.

12 MR. CUNEO: You're welcome.

13 SENATOR ASHBURN: Motion.

14 CHAIRMAN PERATA: Motion to approve both
15 gentlemen. Call the roll, please.

16 SECRETARY WEBB: Cedillo.

17 SENATOR CEDILLO: Aye.

18 SECRETARY WEBB: Cedillo Aye. Dutton.

19 SENATOR DUTTON: Aye.

20 SECRETARY WEBB: Dutton Aye. Padilla.

21 SENATOR PADILLA: Aye.

22 SECRETARY WEBB: Padilla Aye. Ashburn.

23 SENATOR ASHBURN: Aye.

24 SECRETARY WEBB: Ashburn Aye. Perata.

25 CHAIRMAN PERATA: Aye.

26 SECRETARY WEBB: Perata Aye. Five to zero.

27 CHAIRMAN PERATA: Congratulations.

28 MR. CUNEO: Thank you all very much.

1 CHAIRMAN PERATA: Continue your good work. We
2 appreciate it.

3 We're going to take Mr. Sutton out of order
4 because he's needed to go back and make a quorum. I've never
5 heard that excuse before, so I'll bet you it's true.

6 Mr. Sutton, would you come forward, please.

7 That's why you're here. Welcome, Senator
8 Maldonado.

9 SENATOR MALDONADO: Thank you very much,
10 Mr. Chairman.

11 Mr. President and Members, I have the great
12 pleasure of introducing to this Committee a good friend of mine,
13 a friend of the Central Coast, and that's Michael Sutton.

14 Michael has done a tremendous job. And my
15 district, as most of you know, represents almost one-third of
16 the California coastline, and Michael has always valued
17 conservation of our oceans and of our coastal resources.

18 And I can go on, and on, and on, and talk about
19 this man, and all he's done.

20 CHAIRMAN PERATA: No, no, no.

21 SENATOR MALDONADO: And I'm not going to.

22 CHAIRMAN PERATA: Good.

23 SENATOR MALDONADO: I just think his --

24 CHAIRMAN PERATA: He's got to go to a meeting.

25 [Laughter.]

26 SENATOR MALDONADO: Mr. President, his main
27 qualification that I'm here is not because of that. He's a
28 pilot. And to me, anybody who's a pilot bodes well for me.

1 I'm just kidding you, Michael.

2 CHAIRMAN PERATA: Actually, he makes a lot of his
3 judgments based on that.

4 [Laughter.]

5 SENATOR MALDONADO: Yes, I do.

6 But anyway, I'm pleased to introduce Mr. Sutton.
7 He'll be a great addition to the Fish and Game. He's already
8 been on it and already demonstrated he can work with everybody
9 to move the agenda forward. So, I'm just here to introduce him.

10 Thank you, Mr. President.

11 CHAIRMAN PERATA: Thank you. We appreciate it.

12 Well, I want to talk about salmon. I've been
13 waiting. Everybody who's been coming over here for two years,
14 we've been talking about it. So, what's happening now?

15 MR. SUTTON: I don't think there's any other word
16 to describe what's happening with salmon in California or the
17 entire West Coast other than a disaster.

18 We have a situation, as you probably know, where
19 the run in the Sacramento River is at -- at record low levels.
20 There are a variety of reasons for that, that we could go into,
21 but the upshot is probably going to be that the federal
22 government, acting this week, the Pacific Fishery Management
23 Council's going to require that we shut down salmon fishing,
24 commercial and sport fishing, along much of the West Coast, and
25 probably more than a year.

26 This is not something that we expect to be
27 corrected quickly. The root causes of this are many, involving
28 habitat, poor spawning, involving water flows, involving illegal

1 fishing on the high seas. There are many different causes for
2 this.

3 But it's a true disaster for our coastal
4 communities and our commercial and sport fishermen that depend
5 on salmon, and those of us, frankly, that like to eat wild
6 salmon as opposed to farm salmon.

7 One thing we have done at the commission is
8 transmitted our desire to see federal and state disaster relief
9 funds made available to the fishermen on the -- on the coast, to
10 help defray some of their -- the problems that they will have as
11 a result of this.

12 CHAIRMAN PERATA: What's the process for that?

13 MR. SUTTON: Well, the federal government has a
14 certain amount that they make available for these natural
15 disasters that happen from time to time. The West Coast Rock
16 Fish Fishery, when it collapsed, disaster relief money was made
17 available.

18 Salmon fishermen have -- have received this
19 before. You may remember a few years ago, the Klamath River
20 runs were very low, and that required -- because all the salmon
21 from different rivers co-mingle in the oceans, you don't -- you
22 can't just shut down fishing for one run. You have to shut it
23 all down to protect that one weak run.

24 Well, it's one thing when it's the Klamath. The
25 Sacramento River's a much larger run, and so this is a real
26 disaster that's going to take, we think, several years to turn
27 around.

28 We're going to do everything we can, of course,

1 to -- within the state to -- to speed that along.

2 SENATOR MALDONADO: We ought to substitute salmon
3 for broccoli.

4 CHAIRMAN PERATA: Broccoli?

5 [Laughter.]

6 SENATOR MALDONADO: Broccoli, absolutely.

7 CHAIRMAN PERATA: Out of the mouths of babes,
8 right?

9 [Laughter.]

10 MR. SUTTON: We do farm salmon, Senator, but it's
11 not as good a choice as broccoli.

12 CHAIRMAN PERATA: I couldn't agree more.

13 Over the years there's been a belief that we have
14 too few agents or Fish and Game wardens, I suppose. How would
15 you assess that right now?

16 MR. SUTTON: Well, I would compare the situation
17 with our game wardens in California to that of salmon. We have
18 a real disaster. There are not enough of them returning to us,
19 frankly.

20 We're actually honored today to have in the
21 audience two of our wardens: Rob Allen, who's Assistant Chief
22 of the Warden Branch, who's in uniform today; and Jerry Karnow,
23 who I don't think is in uniform but he is the head of the
24 California Game Wardens' Association.

25 Their pay is not up to par with other law
26 enforcement officers in California. Mr. Chairman, I spent six
27 years as a federal game warden, so I know a little bit about
28 what it's like for these guys in the field.

1 We have fewer game wardens in this state than
2 Texas. We probably have few game wardens per unit area of the
3 state than any state in the nation.

4 It's a real problem, because we may -- the
5 Legislature can make all the laws it wants; we can make all the
6 regulations we want. If they're not enforced, we have a real
7 problem.

8 And we have not only the odd fishing without a
9 license going on, we have illegal commercialization of wildlife
10 in California that -- that rises to the level of white collar
11 criminal activity: Abalone, sturgeon poaching for sale. The
12 wardens have to go undercover.

13 This is not just the warden-on-the-beat in the
14 field, checking fishing licenses anymore. These guys are every
15 bit as -- as professional and qualified as any investigative
16 service in California, and you need to give them more support.

17 So, it's at the top of our agenda.

18 CHAIRMAN PERATA: And how do you express that?
19 In your budget, do you recommend that to the --

20 MR. SUTTON: Well, unfortunately, the commission
21 has no control over the department's budget.

22 CHAIRMAN PERATA: Right.

23 MR. SUTTON: That, of course, is up to you all.
24 But all we can do is bring it to the attention of the
25 Legislature or the Governor.

26 One of the -- we're at a point where we need to
27 explore all options. The Game Wardens' Association is working
28 on getting better union representation, and I think that will

1 help.

2 Other states have turned, frankly, have turned
3 the game warden work over to the state police. In Oregon, in
4 Alaska, the state police do the game enforcement.

5 CHAIRMAN PERATA: We've turned the state police
6 over to the CHP.

7 MR. SUTTON: Right.

8 So, it might be something to consider, because we
9 need to look at all options.

10 CHAIRMAN PERATA: Thank you. I appreciate your
11 candor.

12 A lot of very candid people here today. I don't
13 know what's going on.

14 Anybody in the audience that would like to
15 support the nominee? In or out of uniform, it doesn't make a
16 difference.

17 Ann, you're wearing your uniform.

18 MS. NOTTHOFF: Ann Notthoff with the Natural
19 Resources Defense Council.

20 We've had the opportunity to work with Mr. Sutton
21 over the years on big picture ideas, and specific resource
22 protection ideas, and we are impressed with his qualifications
23 and support confirmation to the Fish and Game Commission.

24 CHAIRMAN PERATA: Thank you.

25 Yes, sir.

26 MR. ROGERS: Mr. Chairman, Members of the
27 Committee, I'm Richard Rogers, President of the Fish and Game
28 Commission.

1 And we have had a real Renaissance in our
2 understanding, the commission's understanding of marine issues
3 since Michael Sutton joined us. His background is
4 extraordinary.

5 As soon as he came aboard, about a year ago, I
6 named him Chairman of the Marine Resources Committee. And he is
7 doing a stellar job reinvigorating that committee and getting at
8 some of the issues, Senator Perata, that in fact you raised.

9 I wanted to emphasize a couple of things.

10 One, as you know, as you all know very well, a
11 lot of what we do is extraordinarily controversial. And one of
12 the things that -- that I really pride the commission in,
13 particularly now with its current -- with its current makeup, is
14 the fact that the commissioners listen very, very carefully to
15 people of disparate opinions and ideas, and different versions
16 of stakeholders. And Mr. Sutton is absolutely one of the best
17 at that. He listens, and he does not make up his mind
18 beforehand. I know this because I get to watch him very
19 carefully while he's doing this.

20 And so, he makes his decisions on the best
21 readily available science, which is -- which is a refreshing
22 thing to do. Sometimes it's hard to do. Sometimes you make
23 people angry at you, but it's ultimately what we're all after,
24 is return to the -- California to return to the sustainable
25 abundance that it once was, and I think we're on track to do
26 that.

27 And as you know, we have some very important
28 issues in front of us right now. One of them, the Marine Life

1 Protection Act installation, which is going to be a very hot
2 political issue if it isn't already, especially when it comes to
3 the Southern California Pike, which is Point Conception down to
4 the Mexican Border. And I really count on -- on Mr. Sutton to
5 aid me in that.

6 Currently, Mr. Sutton and I are the only ones
7 with extensive marine experience, and we need him for those
8 purposes.

9 I'll be perfectly open for any questions you
10 might have, if any.

11 CHAIRMAN PERATA: Thank you.

12 Bob, do you have a question?

13 SENATOR DUTTON: Actually, I had an opportunity
14 to have a long conversation with Commissioner Sutton earlier
15 today, and we had a very open and frank discussion about some of
16 my concerns.

17 Just to share briefly, I obviously grew up in
18 Nebraska. My grandfather was a member of the Conservation Corps
19 and heavily involved with hunting and fishing back in the state
20 of Nebraska. And I just talked to him about my concerns about
21 wanting to make sure that we give full engagement.

22 I certainly want to help in making sure that we
23 engage the assistance and the cooperation with Ducks Unlimited,
24 Quails Unlimited, as well as Pheasants Forever, a lot of the
25 conservation groups that are actively working out there, because
26 one of the big challenges I think, as all of us can appreciate,
27 we have with a lot of -- lot of our wildlife areas is that,
28 frankly, we do have a lack of real financial resources to help

1 in the proper maintenance and maintaining and caring for those
2 facilities. A lot of these groups and organizations actually
3 help us to do that.

4 And I think it provides an excellent opportunity
5 for the average citizen to actually buy-in to the process in
6 helping to care for the land. And it's also something I would
7 hope to see greater interaction with regards to our young
8 people, so that they can develop a true appreciation for the
9 land.

10 And so, we had those conversations, and so I'm
11 pleased. I'll go ahead and make the motion for confirmation.

12 CHAIRMAN PERATA: Any further support?

13 MR. KARNOW: Good afternoon, Chairman.

14 My name is Jerry Karnow with the Fish and Game
15 Wardens' Association.

16 I had the opportunity to meet Mr. Sutton about
17 maybe a little less than a year ago, but the Wardens'
18 Association strongly supports an Aye vote for confirmation.

19 You heard earlier that Mr. Sutton told you he was
20 a federal game warden. And that's -- one of the important
21 things is, game wardens are teachers of conservation, which is
22 wise use of natural resources. And just having that -- that
23 type of a background, I believe that he's going to have a very
24 well-balanced approach to a lot of issues, conservation issues
25 and environmental issues.

26 And those are big issues within California.
27 Both of them are very important, and we have -- the Wardens's
28 Association has worked with, and the commission has as well, has

1 worked with, you know, organizations like Sierra Club, and
2 Defenders of Wildlife, Cal Trout, Rocky Mountain Elk, Safari
3 Club International, Natural Resources Defense Council. So, the
4 common ground on issues, and Mr. Sutton understands those very
5 well.

6 So, we're very glad to be here. So, thank you
7 for the time.

8 CHAIRMAN PERATA: Thank you.

9 MS. DELFINO: Good afternoon. I'm Kim Delfino,
10 and I'm the California Director for Defenders of Wildlife. We
11 represent about 100,000 members in California.

12 I just want to briefly just voice our support for
13 the confirmation of Mr. Sutton. I had the opportunity to meet
14 with him several years ago, prior to him going on the Fish and
15 Game Commission, and subsequently have watched as he has
16 performed admirably as a commissioner.

17 He's fair. He's balanced. He's extremely
18 knowledgeable. He's open-minded and courteous, and I think he's
19 really elevated the discussion within the commission, and has
20 served California's citizens and wildlife and fish very well.

21 We look forward to him serving on the Fish and
22 Game Commission. Thank you.

23 CHAIRMAN PERATA: Thank you.

24 MS. HANDLEY: Virginia Handley, Animal
25 Switchboard.

26 And I attend as many commission meetings as I
27 can, and we welcome Mr. Sutton there. And we certainly welcome
28 an environmental voice on the commission.

1 CHAIRMAN PERATA: Thank you.

2 Anybody in opposition?

3 Do you have any family here?

4 MR. SUTTON: Mr. Chairman, unfortunately my
5 family is in Europe at the moment, where they're getting to
6 enjoy snow instead of -- it makes them appreciate living in
7 California.

8 CHAIRMAN PERATA: Did you send them away?

9 MR. SUTTON: Well, they're visiting grandparents.
10 My wife is from the UK.

11 CHAIRMAN PERATA: Oh, okay. You came across as a
12 really nice guy, and then exiling your family.

13 [Laughter.]

14 CHAIRMAN PERATA: We have a motion.

15 This is not lack of interest. We have lots of
16 committees going on right now. And I understand you have to go
17 to yours.

18 We have a motion to approve. Call the roll,
19 please.

20 SECRETARY WEBB: Cedillo.

21 SECRETARY WEBB: Cedillo Aye. Perata.

22 CHAIRMAN PERATA: Aye.

23 SECRETARY WEBB: Perata Aye. Two to zero.

24 CHAIRMAN PERATA: Two-zero, keep the roll open.
25 You'll be fine.

26 MR. SUTTON: Thank you, sir.

27 CHAIRMAN PERATA: Thank you very much. Keep up
28 the good work.

1 [Thereafter, SENATORS DUTTON,
2 PADILLA and ASHBURN voted Aye,
3 making the final vote 5-0 for
4 confirmation.]

5 CHAIRMAN PERATA: Mr. Osen and Mr. Tate, do you
6 want to come up for the Board of Pilot Commissioners for the
7 Bays of San Francisco, San Pablo and Suisun.

8 Normally, this position is one that did not
9 require anyone to appear, but there has been much in the news
10 for the last number of months about the Bay, and obstacles in
11 the Bay that are getting run into.

12 I understand that you cannot comment on anything
13 with the particular case at hand, but one of the things that
14 came up, and you'll see a whole passel of bills were introduced
15 this week trying to remediate one thing or another, we found
16 that there were lots of agencies and departments that had pieces
17 of jurisdiction, and yours would be one of them as well.

18 We all have our points of view about that. What
19 we all, I think, have in common is an appreciation for the Bay,
20 and not only its commercial value, but its ecological value and
21 cultural value.

22 And when I was looking at the responses to the
23 questions, I was a little surprised that -- and this is not
24 particular to what you do -- but that your response was: The
25 foremost goal is to represent your industry and your company.

26 I've been a long supporter of your company, back
27 when it was 29 cents a gallon. But that's a very narrow window,
28 I think you would agree.

1 And then, Ben, your comments were to continue
2 that the ports thrive and grow.

3 And what I'd like you to talk a little bit about
4 is how you balance those goals in a manner that does not put you
5 into a silo, so that you only view things from a perspective of
6 one or the other. I'm not accusing you of only being one or the
7 other, but given the nature of what's been going on in the Bay
8 right now, I think it deserves a conversation.

9 MR. OSEN: I appreciate the -- the observation,
10 and my response did say just as you said, that my ambition was
11 to represent the industry and my company to the best of my
12 ability.

13 And the reason I stated that is because the
14 makeup of the commission is such that there are three public
15 members, two serving pilots, and two industry members. And I
16 think they have to be frequent users of the piloted services;
17 right? And so, when I stated that, I viewed myself of being
18 representative of the industry and my company, let's start with
19 the industry first.

20 The industry, because I saw myself as a component
21 of a group that was well-thought out as comprising people from
22 different walks of life so that the balance will represent the
23 people of California. I wasn't trying to state that I was
24 taking a representative position of my company, or anything like
25 that.

26 I say my company, because they give me the
27 privilege to take time away from work and do this type of work
28 without any penalty to me. And I always feel that whenever I'm

1 out in public and doing whatever it is I'm doing, I am a
2 representative of my company and my family in these types of
3 things.

4 CHAIRMAN PERATA: Thank you.

5 Ben.

6 MR. TATE: Thank you, Senator Perata, and thank
7 the other Committee Members.

8 My name is probably on your sheet it says James
9 Bennett Tate. I'm one of the persons that goes by my second
10 name.

11 CHAIRMAN PERATA: You fooled us all.

12 MR. TATE: My name is Ben Tate.

13 A number of years ago, Jim Pelochi, then
14 President of the Bar Pilots Commission, asked me to meet with
15 the Committee of the Bar Pilots to assist them in the human
16 resource issues. I did volunteer to do that, and then when
17 Mr. Pelochi's term was up, he asked if I wanted to serve, be
18 nominated to serve as a Bar Pilot Commissioner, and I responded
19 I did.

20 I've spent 30-plus years living in Oakland in
21 Alameda County. I've worked at Kaiser Aluminum, Summit Medical
22 Center, Kaiser Permanente, all businesses within Oakland.
23 During that time of my full employment and to this day, I've
24 been involved in the Oakland community and in the county. I've
25 served at the County Economic Development Committee. I was a
26 member of the Executive Council of the Chamber of Commerce. I
27 served on the Board of Youth Alive, which I think you know
28 about, Senator, an agency that -- that addresses youth violence.

1 I currently am Director of the Alameda County
2 Medical Center Board of Directors, and I'm also the Chair of the
3 Alameda County Civil Service Commission.

4 I share these things with you, and these facts
5 with you, not for self-engrandizing purposes, but I believe it
6 is necessary for citizens to be involved in their communities to
7 assure the safe, healthy and economic vibrancy of both city and
8 county.

9 These same concerns are on my mind a potential
10 Bar Pilot Commissioner.

11 I also exercise regularly at Cesar Chavez Park,
12 which is right on the Bay. Was very upset when it -- when I
13 went down there a number of times to exercise and saw the spill,
14 the oil spill, and saw them trying to clean up. So, for me, it
15 is not just -- it's just not a matter of commerce, because you
16 can't have commerce if we had a series of these kinds of events.
17 And it's very much on my mind as a person that works out
18 regularly, and also as a person that is a bird watcher.

19 So, I wanted to express my concern about those
20 things, and also express my interest in this appointment.

21 Thank you.

22 CHAIRMAN PERATA: You just missed it, but earlier
23 there were people here that kill the birds.

24 Without getting into the Cosco Buson incident,
25 there have been some, I guess, yesterday or this morning in
26 Washington, there's been some testimony about the licensure.
27 And in view of this and a couple other things that have
28 occurred, first of all, do you make those decisions about

1 requirements, licensure requirements?

2 MR. TATE: They're part of the Navigation Code
3 Act. And there's a whole set of procedures -- not procedures.
4 There's a whole set of processes that the applicants must go
5 through.

6 CHAIRMAN PERATA: Federally?

7 MR. TATE: There's some of them -- some of them
8 are federal in terms of the Coast Guard requirements and the
9 licensing for I believe it's a Master's License and the
10 Captain's License. Is that correct?

11 MR. OSEN: That's correct. The licensing is
12 two-part. The prerequisite for anyone who wants to be a pilot
13 is the federal endorsement, issued by the Coast Guard.

14 Secondary to that, if you want to become a bar
15 pilot, you need a state license. And that's the piece that --
16 that the commission oversees control of and issues the licenses
17 for.

18 The commission does depend a great deal upon the
19 prerequisite items that are covered under the federal license,
20 one of them being the medical examinations, and so forth. But
21 they also go through the medical examination for the -- for the
22 Board of Pilot Commissioners, the state.

23 So, it is a two-part process.

24 CHAIRMAN PERATA: Do you have anything that
25 you've thought about that should be added?

26 MR. OSEN: Added in terms of --

27 CHAIRMAN PERATA: Qualifications, restrictions?

28 MR. OSEN: I don't know that additional

1 qualifications are necessary at this time.

2 However, when you have an incident like this, you
3 know, you have to. You have to look inward and see how you can
4 improve things.

5 And one of the things that I'm sure will be
6 looked at in the future is the fact that, you know, pilots go
7 through an extensive training program, evaluation,
8 prerequisites, and all this sort of thing, and are certified as
9 a pilot. And then, year to year, their qualifications -- their
10 license is reissued on the basis of -- of physical examination,
11 and the assessment of a physician, and so forth.

12 But we may have to start considering some further
13 competency testing going forward, particularly when you consider
14 that the workforce just to become a pilot is already generally
15 in the later third of their -- their working career. And so,
16 these types of things have to be looked at very carefully.

17 CHAIRMAN PERATA: Are the differences in
18 languages, because these are mostly foreign flags, is that
19 accounted for at the federal level? Do you involve yourselves
20 with that?

21 MR. OSEN: As far as the pilot's work and the
22 difference in languages, I think -- I think the commission here
23 and everywhere in this country and the world depend upon the
24 IMO, the International Maritime Organization, guidance that
25 English language shall be the language used in the navigation
26 bridge.

27 That said, you know, it's -- it's very easy for
28 myself, as a native English speaker, to expect high levels from

1 international crews. When the fact of the matter is, the
2 majority of international shipping, English is their second
3 language. And as a supervisor of international ships, I've come
4 to understand how to speak more carefully and more clearly to
5 people whose language is not English first.

6 It's not a requirement within the licensing
7 process. I know this has -- I've heard through the news as well
8 that this may be a factor with recent incidents. I don't -- I
9 don't know conclusively that, but I suspect -- my suspicion is
10 that language was not the primary barrier.

11 CHAIRMAN PERATA: You work for Chevron, and those
12 are tankers that, I guess, usually come in. And then there's
13 the stuff that comes into the Port of Oakland, which is --

14 MR. TATE: Right.

15 CHAIRMAN PERATA: Do we have any bulk break
16 anymore? It's all just containers?

17 Anyway, there are two different kinds of ships.
18 Do pilots train for both?

19 MS. OSEN: That's correct. To be licensed as a
20 San Francisco Bar Pilot, you have to qualify in all types of
21 vessels. There is no tiered service or restricted service.
22 You're either qualified for all of them, or you're not
23 qualified.

24 MR. TATE: Also in response to your question,
25 Senator Perata, again in light of the incidents that have --
26 that have occurred, we are going through the process. We have
27 five medical examiners now that are -- that are skilled in
28 occupational medicine. But we have a -- we've approached the

1 University of California at San Francisco in their occupational
2 health to review our -- our positions.

3 We also have -- and these are in a spring Finance
4 letter that -- that we brought up here to the state for
5 additional funds.

6 We also are establishing a committee on
7 navigation technology that is chaired by Rear Admiral Frank
8 Johnson, who is also on our -- on our commission.

9 And we also must have mandatory drug testing for
10 trainees. That was part of the new U.S. Coast Guard. And we're
11 going to be setting aside additional funds to do that.

12 So, in some ways, those are changes or upgrades
13 in what we are currently doing.

14 CHAIRMAN PERATA: Any questions?

15 Anyone here in support? Oh, there is somebody
16 here. Pull up a chair.

17 MR. JACOB: Thank you, Senator.

18 Mike Jacob with Pacific Merchant Shipping
19 Association. We represent ocean carriers and marine terminal
20 operators.

21 We'll be brief, but we are here in support of
22 both of these nominees and request that you go through their
23 confirmation.

24 They both bring a lot of skills to the board that
25 the board is going to need. And Commissioner Tate has
26 referenced one of the things that's going to be going forward
27 post-Cosco Buson, is an inward look by the commission.

28 Commissioner Tate brings a lot of experience in

1 terms of basic HR and organizational experience from large
2 organizations that operate under similar constraints. That, we
3 feel, is actually going to be valuable as they move forward.

4 And with regard to Commissioner Osen, any type of
5 expertise with regard to actual operations on the waterfront is
6 advisable and appreciated at the board, because they do look
7 through lots of incidents, not just big ones, but lots of small
8 ones. And his operational background is -- is actually
9 something that we rely on as industry.

10 And I think, to his point earlier and to your
11 question, Senator, it's an excellent question: Who represents
12 what, and what are you doing?

13 And the way the statute is set up, it actually
14 goes through a process of representation and nomination by
15 specific industries.

16 But the way the statute is also crafted is, the
17 board is there for the good of the public. It's there to
18 protect the public. And when you're on and you're sworn, you're
19 sworn to protect the public.

20 So, we look at that and that capacity both for
21 the industry appointees and for the pilot appointees as well.

22 Thank you.

23 CHAIRMAN PERATA: Thank you, Mike.

24 Over the time that I've been involved, I've been
25 very positively impressed both with the work that the commission
26 does, and also with the bar pilots themselves. I mean, it would
27 appear to me to be quite an onerous responsibility that they
28 have. When something goes sideways, you realize it.

1 And I think I would encourage you to be measured
2 in your response to this.

3 But as you said, Ben, when you go out there, and
4 you see the impact when something happens like that -- and I
5 think the state and this administration, I think, and we've been
6 talking about it, there has to be a better alignment of those
7 who have an interest in and jurisdiction over the Bay. And it's
8 always difficult when it's federal and state, but we make some
9 of our own problems because we've Balkanized it so severely
10 ourselves.

11 But I thank both of you for coming in here today.
12 We have a motion to approve.

13 SENATOR ASHBURN: So move.

14 CHAIRMAN PERATA: Call the roll.

15 SECRETARY WEBB: Cedillo.

16 SENATOR CEDILLO: Aye.

17 SECRETARY WEBB: Cedillo Aye. Dutton.

18 SENATOR DUTTON: Aye.

19 SECRETARY WEBB: Dutton Aye. Ashburn.

20 SENATOR ASHBURN: Aye.

21 SECRETARY WEBB: Ashburn Aye. Perata.

22 CHAIRMAN PERATA: Aye.

23 SECRETARY WEBB: Perata Aye. Four to zero.

24 CHAIRMAN PERATA: Four-zero, we'll keep the roll
25 open.

26 Thank you both.

27 MR. TATE: Thank you.

28 CHAIRMAN PERATA: We appreciate it very much.

1 [Thereafter, SENATOR PADILLA

2 -voted Aye, making the final

3 vote 5-0 for confirmation.]

4 [Thereupon this portion of the

5 Senate Rules Committee hearing

6 was terminated at approximately

7 2:30 P.M.]

8 --ooOoo--


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was transcribed verbatim by me, Evelyn J. Mizak, into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of April, 2008.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

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Sacramento, CA 95814
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SUSAN LAPSLEY
Director



March 12, 2008

VIA FACSIMILE and HAND DELIVERY

The Honorable Don Perata, Chairman
Senate Rules Committee
Attn: Nettie Sabelhaus, Appointments Director
State Capitol, Room 420
Sacramento, California 95814

Dear Senator Perata,

Thank you for the opportunity to address your questions in advance of the Senate Rules Committee confirmation hearing on my appointment as Director of the Office of Administrative Law (OAL) on Wednesday, April 9, 2008. I am honored to have served the state and the people of California, in what I believe to be a very important capacity over the last nine months. Below, are my responses to the six questions posed. In addition, attached is an updated Form 700, Statement of Economic Interest.

1. What are your goals and objectives as director of OAL? What do you hope to accomplish? How will you measure your success?

To better serve the public, my top priorities as Director are to: (1) modernize; (2) educate; and (3) improve access. In the nine months that I have held the position, I have worked closely with the dedicated and committed staff at OAL and have taken several steps in furthering these goals.

(1) **Modernization.** Due to budget cuts over the years and various other factors, certain elements have been neglected and the office is in need of updating. Prime examples are OAL's database and the forms and checklists used internally by OAL as well as by the state agencies and the public.

In October 2007 we began the conversion to a new database, from the old legacy system that had been in place. The new database has a high level of functionality which the old system did not, allowing, for example, reports to be generated and data to be searched. The conversion (as with any technology project) has been time consuming but smooth. My Deputy Director, Linda Brown, has worked tirelessly to ensure the successful completion of the conversion.

Senate Rules Committee

MAR 12 2008

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Appointments

Senator Perata
March 12, 2008
Page 2

The forms and checklists that are used internally by OAL as well as regularly by rulemaking agencies and the public have now been revised. Some of these have been revised for the first time in 10 years.

(2) Education. The Administrative Procedure Act (APA) can be confusing, but understanding the procedures, requirements, and the interrelation with legislation is crucial. Educating the public, legislators and state agencies is essential to ensure transparency in the process. To this end, I have worked with staff to develop new training courses, increased the frequency of course offerings, and have begun to revise training documents.

In October of 2007 we developed a course on "underground regulations" and conducted four training classes. The class on underground regulations will become a regular training that OAL conducts and will be offered annually. In addition, we have developed a training course regarding the rulemaking process that is geared specifically for the private sector and general public. This class helps the private sector and the general public to better understand the rulemaking process, thereby giving them the tools to better participate in the rulemaking process. The course for the private sector and general public will also be offered annually.

(3) Improving Access. The key to improving access is having substantive and meaningful information readily available. The internet provides a key, cost effective resource for small agencies with limited staff and funds, such as OAL, to conduct outreach that we otherwise would lack the resources for.

Starting in June 2007, we have been revamping OAL's website, adding substance and useful information for the public, legislators, and rulemaking agencies, while still maintaining a user friendly site. We have been working on adding a section showing the regulations that are currently under review by OAL and expect to have this in production on our website soon. In revamping our website, my highest priority has been to enhance user friendly features for the public, Legislature, and government agencies and to make our website ADA compliant for disabled users.

2. Are there currently any staff vacancies at OAL? If so, how do you plan to fill those vacancies? Are there any barriers to recruitment that OAL needs to address?

OAL currently does not have any vacancies, nor are any vacancies currently anticipated. Historically, OAL is an agency that has very little staff turnover. When an infrequent vacancy does arise, the main barriers to recruitment that have been experienced are (1) the lack of upward mobility within our agency and (2) having the resources to conduct required state testing. With respect to resources for state testing, we have developed a solution by partnering with other agencies to conduct personnel testing. With respect to

Senator Perata
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the lack of upward mobility, out of our fourteen staff attorney positions, we have no Staff Counsel IV positions, five of the fourteen are Staff Counsel IIIs, and the remaining nine are Staff Counsels.

3. Is OAL facing the same staffing shortages caused by retirements that are affecting other departments? Does OAL have a personnel succession plan in place?

Currently OAL is not facing staff shortages caused by retirements. We have identified staff that will be retiring beginning in 2010 and have started an open dialogue to discuss and plan for the timing, resources, and hiring process that will be needed. In addition, we have put into place a system for sharing historical information and have begun to memorialize internal processes, which should offer a smooth transition for hiring and training personnel who will succeed those retiring.

4. How do you plan to mitigate the impact of the resource shortage caused by the proposed budget reductions?

OAL is a very small office (21 total employees) with a very lean budget, 80% of which is for personnel services. Early in its creation, OAL had over 50 employees, but went through severe cuts in the 1990s, down to 25 employees. From 2003-2006 OAL was down to an all-time low of 17 total employees. Conversely, OAL's workload has steadily increased: 668 filings in calendar year 2005, 695 filings in calendar year 2006 and 749 filings in 2007.

OAL has only one program, "Regulatory Oversight" which covers all of our statutorily mandated activities:

- o review of proposed regulations
- o publication of the California Code of Regulations and the weekly Notice Register
- o review of alleged underground regulations

Accordingly, OAL does not have a program that it can cut or curtail. So, OAL will have to rely on savings (as a result of a renegotiation of our office lease) and the reduction of operating expenses and equipment (OE & E) to meet the resource shortage caused by the proposed budget reductions. I have worked closely with staff to identify operating expenses that we can either reduce or eliminate without jeopardizing our core mission.

5. Should there be greater public participation in the rulemaking process? If so, how would it be achieved?

A cornerstone of the Administrative Procedure Act (APA) is meaningful public participation in the rulemaking process. As I identified above, education on the APA and

Senator Perata
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improving access are two of my top priorities, as these are the best two methods by which to achieve greater and more meaningful participation in the rulemaking process.

In addition, AB 1302 (Chapter 713, Statutes of 2006), which went into effect January 1, 2007, remedied one of the main areas where public participation was lacking: proposed emergency regulations. AB 1302 modified the emergency regulation process, and now, in most circumstances where emergency regulations are proposed, an agency must give five days notice to the public prior to submitting those regulations to OAL. And, OAL must post the proposed emergency regulation on our website and then in most circumstances, allow the public to comment on the proposed emergency regulations for five working days. We have promulgated regulations which become effective March 26, 2008, further implementing AB 1302 and its public participation requirements.

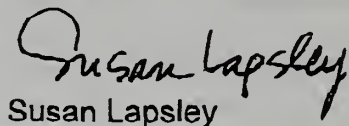
6. Do you believe you have a role in helping state agencies, legislators and the public better understand the rulemaking process and how regulations are generated from legislation?

As I identified above, educating the public, legislators, and state agencies regarding the rulemaking process is one of my top priorities. And as discussed above, in my nine months in this position, I have worked to increase understanding of the rulemaking process. I have been fortunate to have several forums to be able to do so. For example, in January I spoke regarding the rulemaking process to 300+ firefighters as part of the California Professional Firefighters' workshop on their Firefighters Bill of Rights. And, in May, I will be speaking about the rulemaking process to a group at the Women's Policy Institute.

Further, due to term limits, the election in November will usher in a new set of legislators, whom I intend to reach out to and their staff in order to improve understanding of the rulemaking process and how regulations are generated from legislation. I will continue to seek new ideas and opportunities in order to further the goal of educating the public, legislators, and the public on the APA.

Again, thank you for the opportunity to address your questions. If you have any questions or need additional information, please do not hesitate to contact me directly at (916) 323-6221 or slapsley@oal.ca.gov.

Sincerely,


Susan Lapsley

Enclosures

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
 Workers' Compensation Appeals Board
 Reconsideration Unit
 Post Office Box 429459
 San Francisco, CA 94142-9459
 Tel: (415) 703-4580



March 25, 2008

Senator Don Perata
 Senate Rules Committee
 State Capitol Room 420
 Sacramento, CA 95814-4900

RE: Confirmation Hearing April 9, 2008

Senate Rules Committee

MAR 27 2008

Dear Senator Perata:

Appointments

Pursuant to your request of March 13, 2008, you will find my answers to your questions and a copy of my updated Form 700, Statement of Economic Interest.

1. Please provide a brief statement of your goals for your term on the board. What do you expect to accomplish? How will you measure your success?

Since admission to the State Bar in December 1966, I have specialized in the practice of workers' compensation law. The system seeks to guarantee that injured workers receive the benefits to which they are entitled. I intend to continue to perform my judicial responsibilities diligently and compassionately so that substantial justice will be provided to injured workers as well as to employers. Any objective success will necessarily be measured by the workers' compensation community, the practitioners, the trial judges, the courts of appeal, and the Supreme Court.

2. As a commissioner, how does your role in deciding cases and reviewing petitions for reconsideration enable you to identify key issues impacting the workers' compensation system? What, if any, leadership can a commissioner provide when issues are identified?

My unique professional experience has given me the opportunity to view the system from several vantage points. I represented injured workers for 17 years. I represented employers and carriers for 18 years. I have been a commissioner since 2001. Perspective and hopefully some wisdom, developed over many years of advocacy, enable me to recognize the magnitude as well as the nuances of the many important issues which come before us on a daily basis.

3. Since enactment of the recent workers' compensation law reforms, what are the most significant issues upon which the board has issued decisions that affect injured workers?

In addition to approximately 250 panel (3 commissioners) decisions per month, we have issued many *en banc* (all commissioners) decisions. The latter bind the trial judges and guide the workers' compensation community.

In reverse chronological order the most recent *en banc* decisions are as follows:

Benson Combined awards of permanent disability in successive injury cases are no longer allowed absent special facts under SB 899's amendments to the law of apportionment in LC 4663 and LC 4664.

Costa II The 2005 PDRS (Permanent Disability Rating Schedule) can be rebutted under LC 4660.

Cruz "Amputations" as used in LC 4656 (c)(2)(C) means the severance or removal of a limb, part of a limb, or other body appendage, including both traumatic loss in an industrial injury and surgical removal during treatment of an industrial injury so as to limit temporary disability payments.

Hawkins The "date of commencement of temporary disability payment" as used in LC 4656 (c)(1) means the date on which temporary disability indemnity is first paid, and not the date for which temporary disability indemnity is first owed.

Pendergrass II If the last payment of temporary disability is made before January 1, 2005 the 1997 PDRS applies to permanent disability under LC 4660 (d).

Baglione II In order for the 1997 PDRS to apply to permanent disability under LC 4660 (d) the indication of the existence of permanent disability must be set out in either a pre-2005 comprehensive medical-legal report or a pre-2005 treating physician's report.

Babbitt An employer may satisfy its obligation under LC 4600 to provide reasonable medical treatment by transferring an injured worker into an authorized Medical Provider Network, in conformity with applicable statutes and regulations, regardless of date of injury or future medical award.

Costa I The applicant had not carried its burden of proving the 2005 PDRS invalid.

Knight An employer's failure to provide required notice to an employee of rights under a Medical Provider Network, which results in a neglect or refusal to provide reasonable medical treatment, renders the employer liable for reasonable medical treatment self-procured by the employee.

Aldi The 2005 PDRS, effective January 1, 2005, applies to injuries occurring on or after that date, and, in cases of injury occurring prior to January 1, 2005, the 2005 PDRS applies unless one of the exceptions delineated in the third sentence of LC 4660 (d) is present.

Vargas SB 899's apportionment statutes apply to the issue of increased permanent disability after reopening of a prior award but cannot be used to revisit or recalculate the level of permanent disability or the presence or absence of apportionment determined under a final award before April 19, 2004.

Pasquotto An Order Approving a Compromise and Release without more is not a prior award that would be conclusively presumed to be in existence under LC 4664 (b).

Sanchez and Strong Under LC 4664, a prior award to the same body region or different body region subsequently injured will be conclusively presumed to exist, but defendant has the burden of proof as to the award's existence and the overlap between the prior award and the disabilities or impairments resulting from the subsequent award.

Nabors Under SB 899's apportionment sections, the amount of indemnity for a permanent disability award after apportionment, is calculated by determining the overall percentage of permanent disability and then subtracting the percentage of permanent disability caused by other factors under LC 4663 or a prior award under LC 4664. The remainder is the final percentage for which indemnity is calculated.

Escobedo The employer has the burden of proving apportionment under LC 4663. The medical evidence on which the decision to allow apportionment is based must be substantial evidence in which the physician explains why and how there should be apportionment.

4. To what extent, if any, have the recent workers' compensation reforms reduced litigation in the workers' compensation system?

During the post SB-899 era, although the filing of original applications has decreased, the filing of petitions for reconsideration has increased because the practioners have understandably sought more guidance from the Board. In 2003, the year prior to the enactment of the legislation, we received 3,187 petitions. In 2007, we received 4,155 petitions.

5. What impact have the workers' compensation reform measures had on the number of cases moving to the courts?

During the post SB-899 era, the practioners have continued to seek relief from the courts. In 2003, the year prior to enactment of the legislation, the appellate courts received 419 petitions for review while the Supreme Court received 82. In 2007, the appellate courts received 477 petitions for review while the Supreme Court received 69.

6. Do you believe the permanent disability regulations and schedule should be readjusted and if so, how?

It is my understanding that neither Governor Schwarzenegger nor the legislature intended that there would be a significant reduction in awards to permanently injured workers. A readjustment, based on objective studies, of the DFEC (diminished future earning capacity) factor might be utilized to provide a reasonable increase to deserving people. However, this is obviously a policy decision within the province of the legislature.

7. What do you see as the major benefits of the EAMS system? How is the EAMS system expected to affect WCAB and DWC? How will it improve efficiency and expedite the adjudication of claims?

EAMS, a computer based system, is expected to simplify the Division of Workers' Compensation (DWC) case management process. Its stated goal is to create efficiency by eliminating redundancy. Clearly, the environmental and physical stress associated with maintaining paper files will be significantly reduced.

Thank you.

Sincerely,



Frank M. Brass

FB/amsl

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS

Workers' Compensation Appeals Board

Reconsideration Unit

Post Office Box 429459

San Francisco, CA 94142-9459

Tel: (415) 703-4580



March 25, 2008

Senator Don Perata
Senate Rules Committee
State Capitol Room 420
Sacramento, CA 95814-4900

Senate Rules Committee

RE: Confirmation Hearing April 9, 2008

MAR 27 2008

Appointments

Dear Senator Perata:

I look forward to appearing before your committee on April 9th to discuss my confirmation as a commissioner on the Workers' Compensation Appeals Board. As requested, enclosed is a copy of my update Form 700, Statement of Economic Interest. Below you will find answers to the questions contained in your March 13th letter. Please advise if you or the committee have any other requests.

- 1. Please provide a brief statement of your goals for your term on the board. What do you expect to accomplish? How will you measure your success?*

Although as a commissioner I am a member of a team and it is difficult to accomplish individual goals, my major goal in my second term is to reduce litigation. The cost of litigation adds nothing to injured workers' benefits and increases financial pressure on employers. I hope to accomplish this goal by authoring clear opinions; participating with other Board members in the writing of clear regulations governing workers' compensation procedures; participating in and supporting staff training so that the Board becomes more efficient; and reaching out to and educating the workers' compensation legal community and the public at large by speaking at State Bar and other educational forums. My success will be measured by a decrease in litigation.

2. *As a commissioner, how does your role in deciding cases and reviewing petitions for reconsideration enable you to identify key issues impacting the workers' compensation system? What, if any, leadership can a commissioner provide when issues are identified?*

Because of my experience of more than 35 years as a workers' compensation attorney and the 6 plus years I have been a commissioner, I am usually able to spot issues of importance. It can be relatively easy such as when there is a major change in the law as presented by SB 899. It can be from the allegations in the appeal or the repetition of an issue being presented on appeal. A commissioner can provide leadership in resolving those issues by fully participating in opinions on those issues. Since the issues are key a commissioner should discuss and debate the issues with other commissioners and staff based on the old axiom that two or more heads are better than one and recognition that I don't have all the answers.

3. *Since enactment of the recent workers' compensation law reforms, what are the most significant issues upon which the board has issued decisions that affect injured workers?*

In addition to our issuing an average of 250 three commissioner panel decisions per month, we have issued en banc decisions, with participation of all the commissioners, which legally bind all judges and the workers' compensation community under the principle of *stare decisis*. The following listed decisions are en banc decisions starting with the most recent opinion:

Benson Combined awards of permanent disability in successive injury cases are no longer allowed absent special facts under SB 899's amendments to the law of apportionment in LC 4663 and LC 4664.

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Nabors Under SB 899's apportionment sections, for an award after apportionment, the amount of indemnity is calculated by determining the overall percentage of permanent disability and then subtracting the percentage of permanent disability caused by other factors under LC 4663 or a prior award under LC 4664. The remainder is the final percentage for which indemnity is calculated.

Escobedo The employer has the burden of proving apportionment under LC 4663. The medical evidence on which the decision to allow apportionment is based must be substantial evidence in which the physician explains why and how there should be apportionment.

4. To what extent, if any, have the recent workers' compensation reforms reduced litigation in the workers' compensation system?

The Administrative Director has the statistics on the filing of applications for litigation. My understanding is that there has been a reduction in those filings. However, as to be expected with such a major piece of legislation, there has been an increase in the number of appeals filed with the Board seeking guidance as to the application of SB 899 and setting the basis for an appeal to the Courts of Appeal. As an example in the month of March 2004 (one month before the enactment of SB 899) we received 206 petitions for reconsideration; in March 2005 we received 313 petitions for reconsideration; in March 2006 we received 242 petitions for reconsideration; in March 2007 we received 314 petitions for reconsideration. Based on my review of appeals there has been a reduction in litigation with regard to penalties due to the amendment of LC 5814 limiting the penalty payment to 25% of the amount delayed or \$10,000 whichever is less. Also, limiting medical-legal examinations to one physician, should reduce litigation as it does stop the practice of dueling doctors.

5. What impact have the workers' compensation reform measures had on the number of cases moving to the courts?

Again, as to be expected with any major legislation, there was and is an increase in appellate review of the application of the statutory language. For a snapshot view I would offer the following: there were 81 petitions for writs filed with the Courts of Appeal and 17 petitions filed with the Supreme Court for the quarter ending March 2004 (prior to SB 899); 91 petitions for writ filed with the Courts of Appeal and 11 petitions filed with the Supreme Court for the quarter ending March 2005; 99 petitions for writ filed with the Courts of Appeal and 22 petitions filed with the Supreme Court for the quarter ending March 2006; and 118 petitions for writ filed

with the Courts of Appeal and 15 petitions filed with the Supreme Court for the quarter ending March 2007. The Courts have provided timely and substantial guidance in interpreting and applying the provisions of SB 899.

6. *Do you believe the permanent disability regulations and schedule should be readjusted and if so, how?*

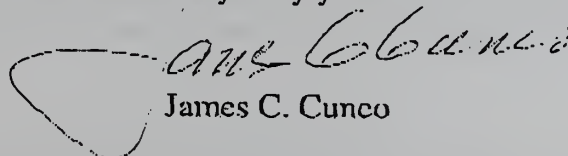
This is a policy question and is really a question of how much of a reduction in permanent disability under the 2005 PDRS versus under the prior PDRS is fair to injured workers. I believe that a 35% reduction is not fair. It is too much and I especially see the unfairness when I review a claim of an injured worker with an operated back who now receives an 18% rating but under the prior schedule would have received a 30% rating. I further believe that because there is such a large reduction we have seen an increase in litigation by attorneys attempting to have the old schedule apply or attempting to somehow ameliorate the results from the 2005 PDRS. One wonders if that litigation cost would have been better spent in increasing the 2005 PDRS. If we are going to keep the AMA guidelines then the only option we have is to readjust the DFEC (diminished future earning capacity) factor by increasing that factor. The increase should be based on appropriate objective studies.

7. *What do you see as the major benefits of the EAMS system? How is the EAMS system expected to affect WCAB and DWC? How will it improve efficiency and expedite the adjudication of claims?*

I have had limited exposure to EAMS consisting of a two-hour general presentation by DWC staff and working with the other commissioners and staff on EAMS regulations. My understanding is that all paper will be replaced by an integrated electronic system. I would hope there would be quicker and easier access by all commissioners at the same time to review the same file. If so there should be a corresponding savings of case review time.

Thank you for the opportunity to provide answers to these questions.

Very truly yours:



James C. Cunco

JCC/amsl



MONTEREY BAY AQUARIUM

March 14, 2008

The Honorable Don Perata, Chairman
Senate Rules Committee
State Capitol, Room 420
Sacramento, California 95814-4900

Dear Chairman Perata:

Thank you for your letter of February 20, 2008 regarding my appointment to the Fish and Game Commission. I look forward to my confirmation hearing on April 2nd at 1:30 pm.

In preparation for the hearing, I've prepared the following responses to the questions in your letter. As you requested, I've also attached an updated copy of Form 700, Statement of Economic Interest.

Statement of Goals

1. *What do you hope to accomplish during your tenure as a member of the Fish and Game Commission? How will you measure your success?*

As I see it, my job as a member of the Commission is to be the best possible steward of California's wildlife and fishery resources. I am particularly interested in the ocean conservation work of the Commission, including establishing marine protected areas and managing ocean fisheries. Among my top priorities will be to complete the implementation of the Marine Life Protection Act (MLPA), revitalize the work of the Commission's Marine Resources Committee, and conduct comprehensive reviews of the Commission's policies and regulations governing marine fisheries and ocean protection. If successful, by 2011 we will see a statewide network of marine protected areas that safeguards ocean ecosystems and the services they provide to all Californians. We will also see improved fishery management plans and policies that incorporate innovative new approaches to sustainable fisheries and fishing communities.

2. *What do you see are the top five challenges facing the Fish and Game Commission? How do you propose to meet these challenges?*

I'm just beginning to understand the complexities and subtleties of wildlife and fisheries management in California. However, it seems to me the biggest challenge facing the Commission is to restore and protect California's increasingly degraded natural systems while maintaining our traditional uses of these resources. This is difficult since many of the causes of the declines in ecosystem health are beyond the jurisdiction of the Commission. Nonetheless,

Senate Rules Committee

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we must use all the authority we have to address these issues. Other key issues facing the Commission include: Rebuilding California's wildlife law enforcement capacity; creating a statewide network of marine protected areas under the MLPA; reviewing and amending Commission fisheries policies and management plans; and identifying new sources of funding to implement key conservation and management programs.

3. *How would you characterize the Commission's relationship to the Department? Do you exercise your authority to formulate policy for the Department? Do you follow through to determine if policy has been implemented?*

The Commission sets policy for the Department, issues regulations, and helps the Department resolve conflicts that arise over resource management. We also have the responsibility to take scientific advice and stakeholder feedback into account when formulating policy for the Department. To that end, one of my priorities is to revitalize the Commission's Marine Resources Committee and hire a new Marine Advisor to staff the Commission on ocean issues. We have already convened a scoping session to develop an agenda for the Committee, which will have the ability to consider issues in more depth than is ordinarily possible at full Commission meetings. The Committee intends to "tee up" actions for consideration by the Commission, including revisions to Department policies, plans, and procedures.

4. *As stewards of California's fish and wildlife resources, the Commission operates with a dual role of providing hunting and fishing opportunities, and protecting the state's public trust resources of native plants, fish, and wildlife. How do you balance conflicts that arise from the dual roles and make decisions? Does the Commission ask for an opportunity to consult with the Department in the development of budget and programming priorities, and if so, how does the Department respond?*

When I worked as a National Park Ranger, we had a similar dual mission: To provide for the use and enjoyment of the parks in such a manner that leaves them intact for future generations. Only by ensuring healthy ecosystems will we build the robust wildlife populations on which hunting and fishing opportunities depend. Therefore, I believe we must put the health of ecosystems and wildlife first. Where conflicts arise, we must err on the side of ecosystem health and provide hunting and fishing opportunities where possible, consistent with that focus. To sacrifice ecosystem health for the short-term interests of user groups would violate our duty of stewardship and run counter to the long-term interests of hunting and fishing in California.

5. *If there is differing testimony between the scientific community and those who spend time hunting and fishing, how do you resolve the conflict? What sources of information do you depend on for advice?*

To be credible, our decision making must be based on the best available science. Fortunately, we know more than ever about impacts on marine and terrestrial ecosystems. Scientists increasingly spend time advising us on, for example, the size, shape, and distribution of marine protected areas. That said, I believe we must also take practical knowledge into account in making our decisions. Stakeholder input is a vital part of the decision making process and can provide insight into the new scientific questions to explore. Finally, uncertainty due to lack of complete scientific information should not be used as an excuse to take no action in the face of potential threats to wildlife and ecosystems.

6. *Does the Commission examine ways to improve the ability of the Department to fund its public trust responsibilities? If so, what have you recommended?*

We all recognize that the Department is strapped for the funds necessary to carry out its responsibilities. For many years, I've been working in support of public-private partnerships as a mechanism of leveraging additional support for the implementation of statutes like the MLPA. Where the public interest coincides with that of private foundations and other donors, we can often build mechanisms to advance resource stewardship using private capital in conjunction with state funds. In addition, in 2006 I served on the political committee to win voter support for Proposition 84, the largest conservation bond measure in U.S. history. The California electorate ultimately approved an unprecedented \$5.4 billion in support of clean beaches, coastal protection, and ocean conservation.

7. *What responses should the Commission consider to the steady decline in sales of hunting and fishing licenses in California since 1980?*

I believe the decline in hunting and fishing is symptomatic of a larger problem: an overall decline in ecosystem health and wildlife habitat. Both field studies and experience suggest that if we safeguard the health of ecosystems, they are likely to yield far more in terms of services like hunting and fishing opportunities. We've seen that principle at work in the context of North American waterfowl populations, which have recovered dramatically in the past 20 years. But at the same time, other wildlife resources have suffered as their ecosystems have been degraded. In my own back yard, the Carmel River used to support a robust steelhead fishery. But today the river is pumped dry most of the year for human needs, and the steelhead run has been reduced to a remnant of its former abundance. We must find ways to restore marine, freshwater, and terrestrial ecosystems that support abundant wildlife populations if we want to bring back hunting and fishing opportunities. Meanwhile, we should continue to identify sources of funding other than license revenue to support wildlife conservation and management in California.

8. *What approaches would you like to see the Commission undertake to address the health of marine life and oceans?*

California is already at the forefront of efforts to address the crisis in our oceans that was identified by the Pew Oceans Commission and the U.S. Commission on Ocean Policy. Groundbreaking statutes such as the MLPA, MLMA, and California Ocean Protection Act have given us a greater ability to restore and protect our ocean resources than any other U.S. jurisdiction. Using this authority, I believe we have the opportunity to implement progressively more innovative and cutting-edge management of our ocean resources, while using mechanisms such as the Ocean Protection Trust Fund, Proposition 84 funds, and public-private partnerships to support strategic investments in the future of our oceans.

9. *What specific policies, programs, or actions do you believe should be taken to address the decline of our ocean resources?*

I'd like to see the Commission develop a closer working relationship with the Ocean Protection Council to put together a game plan to restore California's ocean resources. These two bodies are mirror images of one another: the Commission has authority and the OPC has funding. They could work more closely together for the benefit of California's marine resources. To help make that happen, the Commission is in the process of hiring a Marine Advisor who will provide the staff support necessary to advance our ocean agenda. That will make it possible for us to explore new and innovative approaches to restoring and protecting our ocean resources.

10. *How would these approaches be balanced with fisheries management? What changes, if any, should there be in the process for developing policies to protect key species, to address destructive fishing practices, and ensure commercial and recreational fishing activities for future generations?*

Fisheries management must be part and parcel of ecosystem protection if we are ever going to restore our ocean resources and manage them more effectively. Since 1981, commercial fish landings in California have declined by nearly 70 percent. Destructive fisheries such as gillnets and bottom trawling have already been restricted or eliminated from most state waters, and this trend is continuing. In many coastal areas, fishing has been replaced by tourism as the principal source of support for local communities. If we're going to restore healthy fishing communities, we need to figure out how to make their activities conform to the "triple bottom line": ecological, economic, and social sustainability. The Commission should work with the OPC, the new California Fisheries Fund, and stakeholder groups to develop and implement a vision for the future of our fisheries.

11. *What role could or should aquaculture play in marine resource management? Should government assist the aquaculture industry?*

Aquaculture is growing exponentially around the world. It seems clear that fish farming will be essential to meet the world's anticipated future demand for seafood. Since aquaculture is still a developing industry, we have an opportunity to learn from our past and forego making some of the mistakes in allowing a "boom and bust" cycle of fisheries. I believe government subsidies for aquaculture would be a mistake, just as they were for commercial fisheries. The real challenge is to foster environmentally-responsible aquaculture that does not result in a net loss of ocean resources as is often the case today. California's new aquaculture legislation is a step in the right direction, and a good model for new Federal law governing offshore aquaculture.

12. *Given the current budget constraints, how will the Commission be addressing enforcement needs?*

Perhaps the most pressing issue confronting California's wildlife today is the lack of enforcement personnel and resources. As a former Federal game warden, I have a special interest in this issue and a sense of how important it will be to resolve this deficit. I'm currently working with members of the Legislature and the California Game Warden's Foundation to identify unique funding sources that might be used to address this issue. I also believe we will need to examine new approaches, such as turning wildlife enforcement over to another state law enforcement agency. This approach has been used in other states such as Oregon and Alaska with some success.

I hope these answers are helpful and look forward to discussing these issues with the Committee on April 2nd.

Cordially,



Michael Sutton
Vice President & Director
Center for the Future of the Oceans

cc: William J. Craven, Senate Committee on Natural Resources



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January 23, 2008

The Honorable Don Perata
Chairman - Senate Rules Committee
California Legislature
State Capitol
Room 420
Sacramento, CA 95814-4900

VIA FACSIMILE 916 445 0596

Dear Senator Perata,

Thank you for your letter of 2 January 2008. I look forward to the hearing and as requested provide the following responses to the questions raised.

Question #1 - Please provide a brief statement of your goals. What do you hope to accomplish during your term on the Board of Pilot Commissioners? How will you measure your success?

As one of the two industry members of the Commission, it is my foremost goal to represent my Company and my Industry (tanker) to the best of my ability. In my representation of both of these entities, I view my priorities can be summarized in three bullets:

- Safety - It is the highest priority to ensure that vessels under pilotage are moved through the covered waters of the Bay in a safe and efficient manner so as to protect the environment, the vessels, the crews, the cargo and the pilot. Measurement of success - reduction in the numbers of incidents attributed to pilot error in San Francisco Bay.
- Fiscal Responsibility - Ensure that the various companies that I represent while holding this position on the Commission pay a reasonable fee for the services rendered to them. Measurement of success - feedback from Company peers specific to rates and surcharges.
- Pilot selection and training - The continued success of the Pilots is dependant upon the proper selection and training of new pilots. With number of anticipated retirements in the near future, this will continue to be a challenge to the Commission. Measurement of success - maintenance of the 60 pilots authorized, as well as feedback received on the quality of the newest pilots and trainees.

Question #2 How and when does the board report to the Governor?

I am not aware of a regular, mandatory reporting scheme that the Board makes to the Governor. I do understand that the President and the Executive Director maintain lines of communication with the Governor's staff - particularly with regard to budgetary issues.

Senate Rules Committee

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California Legislature
January 23, 2008
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Question #3 Specifically, what staff assistance do you receive in carrying out your duties?

There are two full time staff members who are available to assist - the Executive Director and the Secretary. Both of these individuals have assisted me in carrying out my duties.

Question #4 What is your view on the structure of the commission in overseeing the pilots? Do you believe it has been effective? Are there ways in which it could be improved?

The Structure of the Commission is as dictated by the Harbors and Navigation Code section 1150. The membership is:

2 licensed pilots
2 industry members
3 public members

I believe that the structure can be effective in current form, but can also present difficulties. My primary issue/concern is in having two pilots serving on the commission that is meant to oversee pilots. I believe it difficult for any individual to attempt to monitor and regulate an organization of which he or she is a member. I do believe that pilots provide an excellent insight during the discussions normally held at the Board meetings, and are a tremendous resource - particularly in the areas of pilot selection and training. However - the Board may be better served by having either additional public or industry members on the Commission rather than serving pilots.

Question #5 Has the commission reviewed the appropriateness of the shifts the pilots work or other worker safety issues?

Current pilot shifts and schedules are reflective of a study conducted in 1986 by Manalytics, Inc. The study was requested jointly by the SF Bar Pilots and the Pacific Merchant Shipping Association. In my time on the Board, the topic of pilot shifts has not been raised in the forum. Certainly, the issue of pilot working shifts and schedules warrants further study in 2008.

The most discussed worker safety issue is that of pilot boarding and disembarkation. It has long been recognized that boarding and debarking the vessel is the single most dangerous event for a pilot. Pilot ladder incidents are a regular agenda item at the monthly meetings. Specific incidents are discussed, and followed up on by the Executive Director and the Incident Review Committee.

Question #6 Is there a specific number of incidents, or a type of incident, that would cause the incident review committee to take a closer look at a pilot?

As I am not a member of the IRC, I cannot comment on any specific threshold for number or type of incidents that would cause closer evaluation by the IRC.

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Question #7 *What level of infraction is needed for a pilot's license to be suspended or revoked?*

As in Question #6, I am not a member of the IRC. However - I would expect the IRC to be guided by section 1181 (a)-(i) of the Harbors and Navigation Code, which lists items which may cause the pilot's license to be suspended or revoked.

Sincerely,



Eric Osen

cc: Pilot Commission

SENATE RULES COMMITTEE

Submitted by James Bennett Tate in response to the January 2, 2008 letter from Senator Don Perata related to questions posed in preparation for confirmation hearings on my appointment to the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun.

1. Please provide a brief statement of your goals. What do you hope to accomplish during your term on the Board of Pilot Commissioners?

My main objective is to try and assure that the commerce that is provided by the Bay of San Francisco and the related ports continues to thrive and grow. The whole economy of the Bay Area is dependent on the business conducted at the ports. There are pressures to move some of the vessel traffic to ports in Mexico and other West Coast ports. I feel as a Commissioner this is primary concern along with protecting the environmental beauty that we in the Bay Area, enjoy.

How will you measure your success?

I am not certain how I will measure my success. Certainly if shipping into the Bay Area decreases relative to other West Coast ports, that would be an indicator that I might not be doing my part to assure the stability of this all-important commerce. I do know that there are many factors beyond a Commissioner's control, however the decline in shipping would certainly require me as a Commissioner to inquire as to the cause and if there is an action the Commission needs to take to address the issue or issues.

2. How and when does the board report to the governor?

I am not aware of a regular reporting process to the governor. It is my understanding that, typically, each president of the Commission develops lines of communication with the Governor's staff to ensure that appropriate persons on the Governor's staff are kept informed. I am aware that the Commission also routinely communicates with the Departments of Finance and Consumer Affairs on budget/finance issues.

3. Specifically, what staff assistance do you receive in carrying out your duties?

There are two full-time employees: an Executive Director and a Secretary, who provide staff support to the Commission. The Board also contracts with legal counsel specializing in maritime law, investigators to assist in investigating piloting incidents and qualified medical examiners to conduct physical examinations of pilots to ensure that they meet physical and mental competency standards.

4. What is your view on the structure of the Commission in overseeing the pilots?

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The Commission must operate within the authority of the Harbors and Navigation Code. The Commission is organized with two pilot representatives, two representatives from the industries that use and pay for pilot services, dry cargo and tanker companies, and three public representatives. This organization of people representing the customer (industry) and the provider (pilots) with independent public members acting as the arbiter, if you will, between the vested interests of the other parties seems to be a sound model for fair and sound deliberations while providing expertise and ensuring fiscal responsibility. This model has worked effectively in the past based on the fact that the business of the bay ports has grown over the years and industry and the pilots have seemed to work effectively to assure no interruption of that growth.

Are there ways in which the Commission can improve?

Always. I have no specifics in mind yet because I am new to the Commission. However I am sure we will look for ways to improve. I currently am chairing an ad hoc committee to look into the ways in which the Commission can work in partnerships with other institutions to broaden the diversity of the pilot application pool. This is one example of the on-going work of the Commission to try and improve its performance.

5. Has the commission reviewed the appropriateness of the shifts the pilots work or other worker safety issues?

The Commission routinely reviews a number of variables related to the pilots' work-load including the frequency and circumstances when the guidelines for minimum (12-hour) rest periods between assignments could not be met. Through this review process the Commission seeks to ensure that there are enough well-trained and rested pilots to handle anticipated vessel traffic.

The Commission, through its Incident Review Committee, also investigates and reviews piloting incidents and makes a determination in each case whether or not pilot fatigue could have been a factor.

The most common safety concern deals with pilot ladders and similar equipment used by pilots to embark and disembark from ships in the open ocean some 11 miles off shore. The equipment is provided by the ship and must meet international standards, which are enforced by the U. S. Coast Guard. There have been four pilot deaths in U.S. waters last year alone associated with this inherently dangerous but necessary part of providing pilot service to ships. This Commission has been tasked with investigating reports of deficiencies in such equipment and reporting the results of such investigations to the Coast Guard.

6. Is there a specific number of incidents, or a type of incident, that would cause the incident review committee to take a closer look at a pilot?

In answering this question, I am mindful of my obligation to avoid taking a position relative to the COSCO BUSAN incident that might disqualify me from acting as a neutral fact finder in the hearing on the charges that have been brought against the pilot in that matter. The Commission has elected to hear this matter sitting with an administrative law judge and I will be a member of that panel.

I understand that the hearing will be held in accordance with the California Administrative Procedures Act and that I may be called upon, in the event of a finding that the pilot was guilty of negligence or other misconduct in that matter, to evaluate his prior incident history based on evidence admitted at that hearing. Nothing in my response should be interpreted as having prejudged that matter.

Guidelines for determining corrective action following a piloting incident require the Incident Review Committee to consider eleven specified factors, among them, the severity of any misconduct or degree of negligence involved in the matter; the danger posed to the public; the number and frequency of prior incidents involving pilot error; the nature and extent of any injuries, property damage or harm to the environment resulting from the incident; the length of time the pilot has been licensed; and prior corrective action imposed on the pilot, among others.

7. What level of infraction is needed for a pilot's license to be suspended or revoked?

The Commission has adopted by regulation guidelines for the level of corrective action that may be considered appropriate in response to specified types of misconduct. These guidelines can be found at Title 7, California Code of Regulations, Section 210(f). Examples of the types of misconduct that may call for a period of suspension include the negligent performance of duties related to vessel navigation; failure to comply with federal, state or local navigation laws; failure to file a timely written report following a marine incident; and others.

Examples of misconduct to warrant revocation of a license include being under the influence of illegal drugs while on duty.

These guidelines are intended to guide the Incident Review Committee in determining the appropriate action to be taken and to promote uniformity in assessing the severity of specified types of misconduct, recognizing that the circumstances of any individual case may warrant action that falls outside the ranges in the guidelines.

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STATE OF CALIFORNIA

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SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 16, 2008

1:35 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

MEMBERS ABSENT

SENATOR DON PERATA, Chair

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

DAVID N. MURAKI, Director
California Conservation Corps

SHEELA ANDERSON, President and CEO
Prevent Child Abuse California

BRUCE SAITO, Executive Director
Los Angeles Conservation Corps
President, California Association of Local Conservation Corps

MARK A. HUTCHINSON, Chief Deputy Director
Department of Developmental Services

ROBERT BALDO, Executive Director
Association of Regional Center Agencies

1 JEAN RIKER
California Disability Community Action Network
2 United Cerebral Palsy

3 PATTI UPLINGER
4 Housing Now

5 MARTY OMOTO, Director
California Disability Community Action Network

6 CARLA ROGERS
7 Training Toward Self Reliance

8 DEBORAH EKWALL
9 Training Toward Self Reliance

10 TONY ANDERSON, Executive Director
The Arc California

11 MICHAEL MCCOY, M.D., Executive Director and CEO
12 California Disability Services Association

13 DOUG PASCOVER, Executive Director
14 Arriba Independent Living Services

15 CONNIE CHU, M.D., Chief Executive Officer
16 Empowerment Institute, Inc.

17 JOE MEADOURS, Executive Director
People First of California

18 KAREN T. JOHNSON, Chief Deputy Director
19 Policy and Program Support
20 Health Care Services Department

21 STANLEY L. ROSENSTEIN, Chief Deputy Director
Health Care Programs
22 Health Care Services Department

23 TERRI THOMAS
24 California Association of Public Hospitals and
Health Systems

25 DIANA S. DOOLEY, President and CEO
26 California Children's Hospital Association

27 HELEN LOPEZ, Assistant Director
28 Governor's Office of Emergency Services

1 ANN MARIE BENETIZ
2 Planned Parenthood Affiliates of California

3 JOHN WALLACE, Chief of Staff
4 Los Angeles Care Health Plan

5 BETSY ARMSTRONG
6 County Health Executives Association of California

7 INGRID LAMIRAULT, Chair
8 Local Health Plans of California
9 CEO, Alameda Alliance for Health

10 JOANNA GIN
11 SEIU Local 1000

12 MARY HERNANDEZ
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

SENATOR ASHBURN: We'll move first to the Governor's appointments scheduled to appear today, and call forward first David Muraki, the Director of the California Conservation Corps.

Welcome.

MR. MURAKI: Thank you, Senator Ashburn.

SENATOR ASHBURN: We're pleased to have you here for confirmation today. If you'd like to make brief opening statement --

MR. MURAKI: Yes, thank you.

SENATOR ASHBURN: -- we'd like to hear from you. So, welcome.

MR. MURAKI: Senator Ashburn and Members of the Committee, in my first three years, after originally joining the CCC in January of 1978, I lived in a tent for 60 weeks, and I supervised the CCC's first Backcountry Trails crews. Today one of my former crew members is the head of Trails in Yosemite National Park. The Backcountry Trails Project has completed over 8,200 miles of trail, and I am before you with the honor of seeking your confirmation to be Director of the CCC.

The CCC is a great organization. On one hand, it's really accessible. It's about real people. It's about real projects getting done. It's filled with many, many stories of lives being turned around. And anyone who knows or once was a young person who needed a little structure, support, new experiences, direction to make the transition into the workforce

1 knows how rare and how valuable the Corps' opportunities are.

2 And on the other hand, the CCC has been in many
3 respects way ahead of its time. In 1979, the CCC opened its
4 first solar and energy centers. It fabricated solar panels. It
5 did energy retrofits. It combined work and training to prepare
6 people for what are now called, decades later, green jobs.

7 I've been really fortunate to be a part of the
8 CCC for much of my life, and during those years to be associated
9 with the great local Conservation Corps of California.

10 I really look forward to working with the
11 Legislature on moving the Corps forward into this new era, and I
12 thank you for your consideration.

13 SENATOR ASHBURN: Thank you, sir.

14 We'll turn now to the Members of the Committee,
15 if there are any questions? Senator Padilla.

16 SENATOR PADILLA: I'm always good for a
17 question.

18 Good afternoon. Just a couple questions.

19 I was noticing in the materials provided to the
20 Committee in preparation for this hearing that there's a good
21 percentage of Corps participants who don't fulfill their full
22 year of participation.

23 Can you enlighten us both on maybe some
24 statistics? We have a six month figure highlighted in the
25 materials, but not the full year.

26 How many complete and how many don't? What some
27 of the more common reasons are for not fulfilling that first
28 year?

1 MR. MURAKI: Right. We're talking about the
2 basically the attrition rate of the CCC. The average length of
3 stay of a corpsmember in the CCC is 7.4 months. The basic term
4 of service is one year, except for some of the programs are six
5 months long, like the Backcountry Trails Project that I just
6 mentioned. So, some of those figures aren't really negative
7 attrition. Those are people that have completed less than a
8 full-time position.

9 Other members also leave the CCC to -- to get a
10 job. And many of those jobs they -- they found while they've
11 been in the CCC.

12 So, I do think, though, the CCC can do a better
13 job of matching our opportunities and the support we're able to
14 provide with the corpsmembers who not only need the CCC, but the
15 corpsmembers who can be successful in the CCC environment. In a
16 lot of ways the Corps has a big heart. It's had an open door,
17 and don't want to see that change too much. But the Corps'
18 opportunities are rare, so I think we might want to be more
19 careful.

20 SENATOR PADILLA: The rarity of opportunities, I
21 wouldn't even categorize it that far, but I know in this
22 building, with the budget deficit situation that's looming not
23 just this year but for the foreseeable future, I think there's
24 going to be an added emphasis that we're as strategic and
25 effective as possible with all programs that we fund.

26 Upon either completion or other exits of the
27 program, is there any sort of assessment that's done on what
28 skills or experience have been gained, what kind of capacity

1 we've built in each individual?

2 We hear a lot of success stories and great
3 anecdotes, but is there anything more systemic that's in place?

4 MR. MURAKI: Prior to my departure from the CCC
5 11 years ago, I managed the CCC's performance-based budgeting.
6 We were one of the four state departments that were piloting all
7 that. And the CCC has a very comprehensive but somewhat complex
8 performance measure system, but has not been able to implement
9 that since the budget cuts of 2001.

10 So, we do have basic completion data in terms of
11 our corpsmember development, education and training
12 competencies, our high school diploma, graduates, high school
13 credits earned. So, we do have basic information that shows us
14 the progress of our -- of our members.

15 And I do agree that we need to rebuild the
16 measurement system that we had constructed previously.

17 SENATOR PADILLA: Well, we'd love to work with
18 you on that and on further reporting to the Legislature.

19 MR. MURAKI: Thank you, Senator.

20 SENATOR PADILLA: Thank you.

21 SENATOR ASHBURN: Thank you.

22 Senator Dutton.

23 SENATOR DUTTON: Just a couple of questions.

24 There was a report that was due to the
25 Legislature in January of 2002. I want to thank you. Your
26 office did contact us this morning. I guess it's actually being
27 submitted now.

28 My question is, this report that's being

1 submitted, is it going to be already outdated, or is it actually
2 going to be current?

3 I haven't seen it yet. I've just been told that
4 you're submitting it. I'm just curious, is it going to be
5 current?

6 MR. MURAKI: Well, the report was due in 2007, so
7 it's a year late, but it's not 2002. We apologize for that.

8 It is a strategic plan for our corpsmember
9 development, education and training programs. So, it's
10 something that, you know, we started implementing as soon as we
11 had this plan and prior to it going through the full approval
12 process. Some of it is underway, but there's much to be done,
13 and it definitely does chart out our future efforts and our
14 goals.

15 SENATOR DUTTON: One of the concerns, my
16 grandfather -- of course, this was a few years ago -- was with
17 the Conservation Corps back in Nebraska. And I realize that's a
18 little different, but my understanding is Conservation Corps
19 primarily help to develop skills in dealing with the natural
20 environment and so forth, dealing with forest areas, and forest
21 management, and they help in natural resource type renovation
22 type projects, things like this.

23 I do have a little bit of concern. I understand
24 that one of the directions you want to head is actually in doing
25 building renovation and so forth. I'm just curious, is this
26 part of the strategic plan that you want to change, where the
27 Conservation Corps is no longer going to be working with our
28 natural resources, and instead we're going to go into the urban

1 city setting?

2 MR. MURAKI: No, it does not mean that we will --
3 I would like to increase as well our natural resources
4 conservation work as needed. And I do believe it's -- an
5 expansion is needed in rural and natural resource rich areas.

6 But I would also like to reestablish the solar
7 and the energy programs that the CCC -- they used to be much
8 larger in the CCC. I believe that's truly consistent with our
9 mission, both of conservation but of training people for what
10 are expected to be many employment opportunities.

11 I deeply respect the Civilian Conservation
12 Corps. I was hoping that Bob Griffith, representing the
13 Civilian Corps, would be here today, but he was unable to
14 attend. And we could do no better than to fill the boots, you
15 know, that really they represent.

16 But I think for this era that we're in now, it's
17 about -- it's about energy efficiency, energy independence, and
18 it's about training people for the jobs that are going to be
19 part of California's economy in the years coming -- coming up.

20 SENATOR DUTTON: It kind of sounds to me like,
21 isn't that kind of what we're supposed to be doing with our
22 community college system and things of that nature?

23 I'll get to my bottom line. Where I'm really
24 concerned, and I really would hate to see us change from the
25 original objective and frankly get into areas that I think are
26 being covered with other institutions, like our community
27 college system, like we're talking about trying to enhance
28 career technical type programs, restore industrial arts, things

1 like that in our K-12 system, it seems to me like you're
2 embarking in an area that's already there.

3 One of the concerns I've had since coming up here
4 to Sacramento is that we have a lot of natural resource areas, a
5 lot of habitat. And one of the big problems, one of the
6 challenges we have is insufficient resources to actually provide
7 for the proper maintenance and caretaking of those properties.
8 It would seem to me that the Conservation Corps does have a very
9 serious mission here that could actually help in that effort.

10 So, I would be really kind of disappointed to see
11 us try to embark in these other areas when we've already got
12 other institutions dealing in that area.

13 MR. MURAKI: Right. I do not see that the CCC is
14 going to abandon, for example, the fisheries work on the North
15 Coast that I was involved in during my 12 years as the Director
16 of the CCC's Del Norte Center. I do not see us forsaking at all
17 the role that we play in maintaining California's -- helping to
18 maintain California's State Parks.

19 But I do think that a partnership of the Corps
20 and the community colleges, which is -- definitely has a long
21 precedent, provides that that combination of practical hands-on
22 experience with the classroom training and education that the
23 community colleges can provide, and I think that has been proven
24 to be very effective with a lot of younger Californians who are
25 not so successful just in purely a classroom environment.

26 And I think one of the great things about the CCC
27 is, it provides us training, provides us education, while
28 getting real projects done. It's not about just training,

1 training-type projects. It's real projects. And I think, for
2 example, weatherization, energy efficient retrofits, public
3 buildings is -- is really an important thing to do.

4 The CCC energy retrofits of the whole Resources
5 Agency building previously, of Folsom Prison, of the twin
6 towers, the Social Services building. So, this is not -- it's a
7 little bit back to the future for the CCC to move in this
8 direction.

9 And I agree that if it's at the cost of our
10 natural resources work, then the net benefit is a little bit
11 less clear.

12 SENATOR DUTTON: I'll look forward to reading the
13 strategic plan, but I will have to say I still think you're
14 moving in an area that's duplicating or getting into other
15 areas. That's just my opinion.

16 MR. MURAKI: All right, thank you, Senator.

17 SENATOR DUTTON: Thank you.

18 SENATOR ASHBURN: As you know, I've had a
19 particular interest in volunteers, and the ability of
20 organizations like yours to fully utilize the good will and the
21 excellent service, knowledge, compassion, care, skill of real
22 people who step forward as volunteers.

23 And I just would like to ask you, because we have
24 had the opportunity to discuss this a little bit, about the role
25 of volunteers in your organization and in the work that you see
26 being done out there, especially as Senator Dutton mentioned,
27 with many of our national resource efforts.

28 So, if you could comment that, I'd appreciate it.

1 MR. MURAKI: Right, and the volunteer community
2 definitely appreciates your support of their work.

3 The service and volunteer field, it ranges from
4 occasional volunteers to people that commit a year of their life
5 to serving. The CCC was kind of the first reincarnation
6 post-Depression era, post-World War II, of this intensive
7 service idea. It's been followed more recently by AmeriCorps,
8 for example.

9 And in California, which led the way in
10 reestablishing the Corps, the main focus has been the
11 environment. So, a hundred -- millions of hours of work have
12 gone into fisheries restoration, park maintenance, watershed
13 restoration, all -- all types of resource -- resource work.

14 What I would like to do is, I think that the
15 Corps are well positioned, and I say this in a complimentary
16 way, toward Habitat for Humanity. I think the Corps can help to
17 organize opportunities for community volunteers to volunteer in
18 environmental projects, much like Habitat for Humanity does for
19 housing projects.

20 So, I think that the Corps can do more to create
21 opportunities, because I think volunteers, they need
22 opportunities. They need somebody to train them. They need
23 somebody to prepare the site, to bring the tools there. And
24 that's why there's not -- there's not a conflict between paid
25 staff and volunteers. They need each other, and I think the CCC
26 can help play a role in really making meaningful volunteer
27 opportunities in the environmental field available.

28 SENATOR ASHBURN: Just so that everyone

1 understands, if the Legislature does not act by the end of this
2 year, there's going to be legal ambiguity with respect to the
3 use of volunteers by many of the organizations that you
4 mentioned, and for environmental protection and benefit
5 projects.

6 I want to ask you more specifically what you
7 foresee as the consequences of the failure of the Legislature to
8 act in this matter?

9 MR. MURAKI: Well, Senator, I guess the situation
10 that created the need for this legislation to clarify the
11 application of prevailing wage laws to volunteers was a stream
12 restoration project on Sulfur Creek in Redding in which students
13 from Shasta College were helping to clean up and restore a creek
14 there. And I don't believe that they should be paid the
15 prevailing wage.

16 That's -- the legislation -- without the
17 legislation, there is the risk that that volunteer program could
18 only happen if the volunteers are paid the prevailing wage. So,
19 I think that means it wouldn't happen.

20 And I think it's entirely possible, and has been
21 proven so by pass legislation, to create a statutory framework
22 so that there is -- it guards against abuse that unionized labor
23 would experience through the use of volunteers. I think it's
24 very possible to create those protections.

25 So, I think that is what your bill and the
26 previous bills passed by the Legislature have enabled to
27 happen. And I think one piece of evidence of the effectiveness
28 of those pieces of legislation is that there hasn't been a

1 complaint in some five years. So, I think -- I think it
2 worked.

3 SENATOR ASHBURN: Thank you. I do appreciate
4 that.

5 We will now call for witnesses who would like to
6 testify in favor of the nominee. Anyone who would like to speak
7 in support, please come forward. If you'd give us your name for
8 the record and a very brief statement, we'd appreciate it.

9 MS. ANDERSON: Thank you. My name is Sheela
10 Anderson, and I'm the President and CEO of Prevent Child Abuse
11 California, which might seem like an unlikely organization, but
12 indeed it's not.

13 David Muraki has been a person long committed to
14 children and youth and their well being. He's served on the
15 Board of Directors for many years for the local Child Abuse
16 Prevention Council, so he knows how to be a volunteer himself in
17 that capacity and others.

18 I've had the pleasure of working with him on
19 volunteer issues around AmeriCorps members, and I want to tell
20 you, David is an uncommon man. He can see the policy issues
21 from 10,000 feet up and understand them very well, and he can
22 also tell you in great detail budget issues and federal
23 regulations. So, he can play all of those roles.

24 I am convinced that he will energize the
25 California Conservation Corps and energize the volunteers, and
26 bring it to new heights and new levels. And I certainly want to
27 endorse his appointment.

28 SENATOR ASHBURN: Thank you very much.

1 MR. SAITO: Good afternoon, Senator Ashburn,
2 Members of the Committee.

3 My name is Bruce Saito. I'm the Executive
4 Director of the Los Angeles Conservation Corps and President of
5 the California Association of Local Conservation Corps, twelve
6 nonprofit corpsmembership in the State of California.

7 I've known David since he started that project,
8 that Backcountry Project, back in whatever that was, David, 1978
9 I think you said. And I think that's one of the qualities and
10 experiences that David brings to the table here that will make
11 him a great Director of California Conservation Corps.

12 Some of you know, Dan knows, that it's a hard job
13 working in the backcountry. More mentally challenging and hard
14 than I think physically. I mean, it's hard breaking rocks.
15 It's hard walking ten miles just to your project site for the
16 day, then walking -- working a full day and walking back for the
17 day. It's hard supervising 20 young folks to keep their minds
18 and as bodies focused on the task at hand over a six-month
19 period.

20 But David -- David possesses I think an
21 incredible experience of that basic hard work and skill ethic,
22 as well as the previous speaker talked about, a great, I think,
23 experience in management, and in administration of programs like
24 this. He brings some federal experience from his work with
25 California Volunteers and AmeriCorps at the national level.

26 I think more importantly, I think he has the
27 background and experience to really continue the 75-year legacy
28 of the Civilian Conservation Corps, and the 31-year legacy of

1 the California Conservation Corps because of his commitment and
2 I think mission-driven ideals that will, again, lead the
3 California Conservation Corps into the years to come.

4 I fully and wholeheartedly support the
5 endorsement and endorse the appointment of David Muraki to
6 Director of the California Conservation Corps.

7 Thank you.

8 SENATOR ASHBURN: Thank you, sir.

9 Other witnesses in support? Witnesses in
10 opposition?

11 Mr. Muraki, do you have any relatives or family
12 here?

13 MR. MURAKI: I do. Thank you for the
14 opportunity.

15 SENATOR ASHBURN: Please introduce them.

16 MR. MURAKI: I'm joined by know father Tom,
17 whose birthday it is today.

18 SENATOR ASHBURN: Happy birthday.

19 MR. MURAKI: I'm joined by my wife Judy, and two
20 of my three sons: Michael and Scotty.

21 I'm joined by another colleague from the
22 California Local Corps, Dwight Archibald, Director of the
23 Sacramento Corps.

24 I'm joined by my father-in-law Howard Dugger.

25 And I am joined by my esteemed co-workers from
26 the CCC, including the former CCC Director Bob Sheble. There he
27 is.

28 SENATOR ASHBURN: Thank you all for being here.

1 I appreciate your interest and support for our nominee.

2 If there are no further questions --

3 SENATOR PADILLA: Move.

4 SENATOR ASHBURN: -- there's a motion from
5 Senator Padilla to approve. Please call the roll.

6 SECRETARY WEBB: Cedillo.

7 SENATOR CEDILLO: Aye.

8 SECRETARY WEBB: Cedillo Aye. Dutton.

9 SENATOR DUTTON: Aye.

10 SECRETARY WEBB: Dutton Aye. Padilla.

11 SENATOR PADILLA: Aye.

12 SECRETARY WEBB: Padilla Aye. Ashburn.

13 SENATOR ASHBURN: Aye.

14 SECRETARY WEBB: Ashburn Aye. Four to zero.

15 SENATOR ASHBURN: Congratulations.

16 I would ask Mark Hutchinson to please come
17 forward. Settle yourself at the table. Welcome,
18 Mr. Hutchinson, the Chief Deputy Director for the Department of
19 Developmental Services. Welcome, sir.

20 MR. HUTCHINSON: Thank you.

21 SENATOR ASHBURN: If you'd like to make an
22 introductory statement.

23 MR. HUTCHINSON: Thank you.

24 Good afternoon, Mr. Chairman and Members. Thank
25 you for this opportunity to come before you today for
26 consideration of my appointment as Chief Deputy Director of the
27 Department of Developmental Services.

28 I started my career with the Department of

1 Rehabilitation, where I quickly discovered the benefits and
2 rewards of public service. I met many talented and dedicated
3 individuals who had a profound impact on the lives of their
4 clients. What I originally believed would be a two-year job
5 turned into a 19-year commitment to individuals with
6 disabilities to live a more independent life and reach their
7 employment goals.

8 I'm excited to have this opportunity to continue
9 serving individuals with developmental disabilities in support
10 of broader spectrum of daily living services.

11 I am also excited to be working with Director
12 Delgadillo, the many dedicated employees in the department,
13 including the state-operated facilities, and the 21 Regional
14 Centers providing the direct services to nearly 230,000
15 consumers.

16 One of the most serious challenges facing the
17 department today is the number of employees at or near
18 retirement. The department is uniquely situated in that they
19 have -- we have benefitted for many years with individual --
20 with a workforce that remained dedicated to the consumers that
21 we serve.

22 However, now we are faced with over 70 percent of
23 our managers, 52 percent of our supervisors, and 40 percent of
24 our workforce overall at retirement age. The Director and I
25 have dedicated -- are dedicated to the many workforce
26 development and succession planning efforts underway that will
27 ensure ongoing success of the department and our service
28 delivery system.

1 My long history with employment programs has me
2 very excited about consumer employment initiatives. The
3 department is currently administering a state exam to
4 approximately 100 consumers for Office Occupations Clerk. The
5 resulting list will be available to all state departments.

6 I'm also exploring programs that establish
7 internships for graduating high school students with
8 developmental disabilities to develop marketable employment
9 skills and prepare them for public sector careers.

10 My training as an auditor has served me well
11 throughout my career, including my current position where the
12 department is experiencing increased program costs during this
13 time of significant budgetary challenges. I take seriously our
14 responsibility to maintain administrative and fiscal oversight
15 while ensuring the delivery of services to our consumers. I
16 also consider it essential to collaborate with our partners in
17 this endeavor.

18 As Chief Deputy Director, I look forward to
19 continuing my commitment to individuals with developmental
20 disabilities. Once again, thank you for your consideration of
21 my appointment, and I'm happy to answer any questions.

22 SENATOR ASHBURN: Thank you very much, sir.

23 I'll turn to the Committee, are there any
24 questions at this time? Senator Padilla.

25 SENATOR PADILLA: A couple questions.

26 As we follow department, agency, commission and
27 boards appointees who come through here, one of the common
28 threads across state government is a concern about succession

1 planning.

2 Can you comment a little bit about your senior
3 management and what percentage are either eligible for
4 retirement today or will be in the very, very near future?

5 MR. HUTCHINSON: Actually, our senior manage --
6 our executive level, there's 82 percent of our -- of the
7 employees are at retirement age. And within our senior
8 management, 70 percent are at retirement age.

9 We have been involved in programs within the
10 department, within our agency, where we're developing our
11 presupervisors. We have a program for developing them to become
12 supervisors in the department.

13 We also have what we refer to as the Super Leader
14 Academy for our employees to prepare them. These are
15 individuals that are in senior management positions.

16 Also, the agency, our agency has a Leadership
17 Academy in which -- that we sponsor individuals to help them
18 transition to executive management positions.

19 And then we also are involved in a program that
20 is designed for executive managers, of which I was one of the
21 original participants in the program, and linking executive
22 management with IT management to provide some specialized
23 skills.

24 SENATOR PADILLA: So, these are all initiatives
25 and efforts that are already in place, or are some of these
26 initiatives still in progress.

27 MR. HUTCHINSON: These are all initiatives that
28 are already in place. Some of them very recent; some of them

1 have been with the department for a while.

2 SENATOR PADILLA: Today, six months from now, a
3 year from now, we'll be ready to backfill when necessary in
4 anticipation of retirements?

5 MR. HUTCHINSON: That's our expectation, that we
6 are sponsoring so many individuals in these programs that are we
7 are preparing the organization for the retirements that are
8 ahead of us.

9 SENATOR PADILLA: I just don't know if the
10 preparation takes six months, a year, three years, if there's
11 some sort of rotation when we'll be ready for a wave of
12 retirements?

13 MR. HUTCHINSON: In terms of not just the
14 employees that we have, we also have programs to bring
15 individuals into the department.

16 And we have programs -- many -- most of our
17 employees are direct care, provide direct care supervision in
18 developmental centers. And we have a program that has been
19 established, called the 20/20 Program, that allows for
20 individuals to receive training to receive training to become
21 licensed psychiatric technicians. And so, we're preparing not
22 only for the management issues, but also for our direct care
23 staff.

24 We also, with the closure of Agnews Developmental
25 Center, we initiated a department restriction of appointment
26 program that gave them, those individuals working in Agnews,
27 priority within our other developmental centers for new
28 positions so that we could retain experienced staff, so that

1 they -- we wouldn't run into a situation in the near future.

2 The expectation related to having individuals at
3 retirement, we do expect that as we go through the various
4 sessions and academies to prepare our existing employees, that
5 we'll be able to have people in place.

6 SENATOR PADILLA: Let me ask you a direct care
7 question in a minute.

8 But first, you talk about retaining your existing
9 employees and recruiting from other departments. How have the
10 recruitment and/or retention efforts been impacted by salary
11 hikes that have been mandated in the Department of Corrections,
12 if at all?

13 MR. HUTCHINSON: The Department of Corrections
14 increases, we were fortunate enough that our employees received
15 similar increases, that didn't bring them to the CDCR levels,
16 but near the CDCR levels.

17 SENATOR PADILLA: Close enough.

18 MR. HUTCHINSON: Close enough that -- many of our
19 employees are very dedicated to the consumers, have worked with
20 them for many, many years. And they have -- are willing to stay
21 with the department, given their commitment to our population as
22 well as that there is no longer a severe or significant
23 discrepancy between the salaries.

24 SENATOR PADILLA: As far as direct services, as
25 you've noted and the Legislature is increasingly noting, there's
26 a spike in the number of autism cases that have been diagnosed.

27 Can you tell us what sort of expansion of
28 services and access to services initiatives are being undertaken

1 to address that?

2 MR. HUTCHINSON: Certainly. With the increase in
3 autism caseload, the growth in a lot of -- in our consumer
4 population of late has been primarily in the area of the
5 autism.

6 And the department has been engaged with, or they
7 were engaged with the Blue Ribbon Commission that was
8 established. And we also have published guidelines that -- in
9 2002, we published guidelines on early diagnosis of individuals
10 with autism. We recently, in February of this year, published
11 guidelines related to the interorganizational collaboration
12 between the departments or entities serving individuals with
13 ASD.

14 And we also plan to issue guidelines later this
15 year, it's scheduled for December 2008, on best practices
16 related to treatment of individuals with autism.

17 The wave of individuals coming out of the school
18 system, where many of these individuals currently receive their
19 daily services, we expect in about five years to see a
20 significant increase of these individuals coming into our system
21 for all of their daily services, daily living services. That
22 will include the work program, day programs, some of our more
23 expensive services. It also, subsequent to that, will impact
24 our residential programs as well.

25 SENATOR PADILLA: Thank you.

26 SENATOR ASHBURN: Senator Dutton.

27 SENATOR DUTTON: Just a little bit kind of going
28 in that direction.

1 I know there's been an increase in your caseload,
2 particularly with the regional centers and so forth. What I'm
3 concerned is being able to, obviously, keep up with the increase
4 in the caseload. What kind of steps are we currently taking to
5 try to contain costs without sacrificing program quality? Is
6 there any kinds of efficiencies or cost-saving measures that
7 you're looking at trying to do in order to be able to still make
8 sure we deliver a high level of service but at a lower cost?

9 MR. HUTCHINSON: Certainly.

10 In March, last month, we issued a report at the
11 Legislature's request on controlling costs in regional centers
12 -- in the regional center system. That report identifies what
13 the major cost drivers are in our system, autism being one of
14 those drivers, but also other drivers: aging population of care
15 givers that then require transition of individuals that are
16 living in their family home into residential programs.

17 Also, the longevity of our own consumers in
18 terms of, they are reaching the age of the general population
19 and dealing with their issues, as all of us experience as we
20 age. Also, have been driving some of those costs.

21 And those -- this report identifies all of those,
22 all of the cost drivers that we've seen. It also provides
23 options for controlling costs, not only those that have been
24 tested before or proposed previously, but also those that are
25 included in the Governor's budget, and also new ideas.

26 That report I'd be happy to send to your office
27 and to the Committee to ensure that you have a copy of that.

28 SENATOR DUTTON: I'd sure appreciate it.

1 Periodically, do we do any kind of audits at all
2 with the regional centers, performance audits or something like
3 that?

4 MR. HUTCHINSON: We do have audits. We have an
5 audit program of our regional centers, and we audit them for
6 compliance purposes.

7 We also have an audit program for our -- the high
8 cost vendors. Those audits are done through our office. Other
9 vendors that have a lesser amount of gross income associated
10 with our services are audited actually by the regional center,
11 and then we interact with them in terms of --

12 SENATOR DUTTON: You mean somebody in your
13 department, they review it?

14 MR. HUTCHINSON: Yes.

15 SENATOR DUTTON: Somebody reviews it?

16 MR. HUTCHINSON: Yes, correct.

17 SENATOR DUTTON: Is there anything that we can do
18 to help or assist in increasing access to federal funds? Is
19 there anything more that we need to do to maximize that?

20 MR. HUTCHINSON: Well, certainly that's something
21 we're always looking at in terms of maximizing federal
22 participation.

23 We do have a home and community- based waiver
24 program. We try to maximize the participants on that program.
25 They have to meet certain criteria, and we work with the
26 regional center system to ensure they're aggressive in terms of
27 maximizing the federal dollars that are available to us.

28 SENATOR DUTTON: Is there anything you can think

1 of right now that we ought to consider within this current
2 legislative period that would help? Or do you feel we've kind
3 of done what we can do at this point to maximize our efforts on
4 federal funding?

5 MR. HUTCHINSON: Off the top of my head, I'm
6 going to say I can't think of any.

7 SENATOR DUTTON: If something comes to your mind,
8 I want you to share it with us later.

9 MR. HUTCHINSON: We do have the Early Start
10 Program that receives federal dollars, and we're looking at that
11 grant. We're pretty much tapped out on that grant, but that's
12 our other major source of federal dollars.

13 SENATOR DUTTON: Okay, thank you.

14 SENATOR ASHBURN: I just want to go back to the
15 point that you made that I think is very dramatic, and that has
16 to do with the people that are not just in supervisory and
17 management positions, but are on the first line of service
18 delivery to a very vulnerable population and the particular
19 difficulty.

20 We're not talking future trends here with respect
21 to retirements and departures of our employees, especially I'm
22 thinking about psychiatric technicians.

23 We all know, I think, we understand the nursing
24 shortage in our state. It is similar in the magnitude of the
25 problem with respect to psychiatric technicians, and licensed
26 vocational nurses, and nursing assistants, and others that
27 provide the first line of care in the facilities.

28 And so, my question, this is a crisis as far as

1 I'm concerned. We're having difficulty filling those positions
2 today. Patient care is put into question when that occurs.

3 What is it that we can do here to be helpful to
4 you, as a department that's trying to provide essential
5 services, to bridge this gap in providing qualified personnel.

6 Frankly, this is a mixed blessing. We talk about
7 the retirements and the departures of individuals from state
8 service, but this creates a tremendous new job opportunity for
9 young people coming into the workforce.

10 It seems to me that we don't emphasize this in
11 that manner. And there are, I suspect, some serious impediments
12 to people being able to come into the workforce and to receive
13 the training and education that they need to do so.

14 So my question is, how can we help you make sure
15 that we have the qualified individuals to take care of the
16 extremely vulnerable people that are under your area of
17 responsibility, in the Developmental Services area?

18 MR. HUTCHINSON: Well, we've been engaging in
19 initial discussions with the California University system to
20 identify or develop programs that are specific to serving an
21 individual with developmental disabilities, actually
22 establishing a degree program.

23 Certainly, any help that the Legislature could
24 provide in that area of creating a means by which a door that
25 individuals in school see to come into this field.

26 I certainly, when I was in college, didn't think
27 about this as a vocation, but there was a door that I was able
28 to walk through that allowed me to experience working with

1 individuals with disabilities, I was very grateful for that.
2 And I think that that would be one way that we could
3 certainly --

4 SENATOR ASHBURN: I would encourage you, in fact
5 I would challenge you, as we consider your confirmation, to be
6 very specific with us, not today but when you leave here and you
7 pursue this. Because we need specific direction with respect to
8 either regulation or law that stands in the way of properly
9 recruiting and then educating and training the individuals that
10 we need in the workforce. And there are those impediments.
11 There are those barriers that we need to help clear out of the
12 way.

13 And we can all talk about it in general terms and
14 lament our problem, but for the people that need the care, they
15 don't have time. We don't have time to waste on this.

16 And I think this is a matter of significant
17 urgency, and I would ask you to help us in that way.

18 MR. HUTCHINSON: I'm very happy to work with you.

19 SENATOR ASHBURN: Thank you very much.

20 We'll now turn to witnesses in support of the
21 nominee who's before us.

22 MR. BALDO: Senator Ashburn, Committee Members,
23 Bob Baldo, the Executive Director of the Association of Regional
24 Center Agencies. We represent the regional centers here in
25 California.

26 I'm happy to be here today to speak in support of
27 Mark Hutchinson for this position. As you can tell, he's a man
28 that's well versed in both program and fiscal and administrative

1 matters.

2 And I'm pleased that you brought up the issue of
3 succession planning within the department and within the state.
4 It's a very big issue with us in terms of the senior management
5 staff in the Department of Developmental Services. We, too,
6 have concerns about the future of this particular department,
7 this particular program.

8 I think people like Mark are important for the
9 future of the department and the people that we're serving,
10 including the spike of autism of people you discussed
11 previously. I think the skill set he brings is really critical
12 at this juncture of the department, and of a department that has
13 the developmental centers and the regional centers. It's very
14 complex, continues to grow, and the caseload will continue to
15 grow.

16 So, we need people of his caliber, and we support
17 his confirmation for this position of Chief Deputy Director.

18 SENATOR ASHBURN: Thank you, sir.

19 Next witness.

20 MS. RIKER: Thank you. My name is Jean Riker,
21 and I'm a member of California Disability Community Action
22 Network, with strong support of you.

23 Also very strong support of what you just said,
24 Senator.

25 Also, I'm on the Board of Directors in
26 Sacramento's UCP, United Cerebral Palsy, which is long term -- a
27 long time supporter of children with disabilities and also now
28 forced to be -- to grow and grow for the autism community.

1 So, we thank you and look forward to working with
2 you.

3 Thank you.

4 SENATOR ASHBURN: Thank you, Ms. Riker. We
5 appreciate you being here and your testimony.

6 MS. UPLINGER: Good afternoon. Patti Uplinger
7 from Housing Now.

8 We seek -- we have the challenge of seeking
9 affordable and accessible housing for people who are
10 developmentally disabled so they can live independently in the
11 community.

12 And I'm excited to have Mark's expertise as well
13 as his energy at the DDS.

14 And, Senator, I appreciate what you said about
15 educating people. And I think it's a long time coming.

16 I've got over 31 years' experience working with
17 people with developmental disabilities, and I think we need to
18 have our young folks look at a career track that they can follow
19 so that we have good quality people that are working with our
20 folks, as you said, a vulnerable population with developmental
21 disabilities.

22 We strongly support this confirmation.

23 SENATOR ASHBURN: Thank you.

24 MR. OMOTO: Senator, my name is Marty Omoto. I'm
25 the Director of the California Disability Community Action
26 Network, also a family member. This is my sister, Elena. She
27 had developmental disabilities, and she was part of this
28 system. I loved her very much.

1 Mark is part of an extraordinary team led by
2 Terry Delgadillo. And even though we're in a very terrifying,
3 difficult budget year, it's never been difficult to work with
4 Terry Delgadillo or Mark. We appreciate their efforts.

5 SENATOR ASHBURN: Thank you very much, sir.

6 MS. ROGERS: Hello. My name is Carla Rogers. I
7 am with the agency Training Toward Self Reliance, and we work
8 with over 400 people with developmental disabilities. I'm here
9 on behalf of our agency as well as our Executive Director, Nancy
10 Chance.

11 We strongly support the confirmation of
12 Mr. Hutchinson. Thank you.

13 SENATOR ASHBURN: Thank you.

14 MS. EKWALL: Good afternoon. My name is Debbie
15 Ekwall. I also work at Training Toward Self Reliance, which is
16 an agency that supports and trains adults with developmental
17 disabilities.

18 I've been a supervisor there for quite sometime,
19 and we've made a lot of headway. And I think that
20 Mr. Hutchinson's confirmation is just going to increase the
21 growth and the skills that these people are going to be able to
22 take on and live independently even more in the future.

23 Thank you.

24 SENATOR ASHBURN: Thank you.

25 MR. ANDERSON: Tony Anderson, Executive Director
26 of The Arc California. We're an association of people with
27 intellectual and developmental disabilities and their families.

28 We're here in support of the appointment of

1 Mark. Our membership, it's very important to the families of
2 people with disabilities that public officials are accessible,
3 that we can get down and sit across the table and work things
4 out.

5 We don't agree with what we're seeing in the
6 budget, of course, year to year. We're very frightened of what
7 this could mean.

8 But the fact that we can get down there and be
9 open, and try to work things through is very important to our
10 membership.

11 And I can't resist, we talked about the
12 workforce, the importance of the workforce. My membership is
13 so, so worried about this particular issue. And in particular,
14 the workforce in the community. People, that's where most of
15 the people are, and we're struggling to create a profession, and
16 we're working hard to do that. And I'm happy to hear that
17 that's a priority.

18 SENATOR ASHBURN: Very good, thank you.

19 DR. MCCOY: Good afternoon. I'm Michael McCoy.
20 I'm the Executive Director and Chief Executive Officer of the
21 California Disability Services Association. You may remember it
22 as the California Rehabilitation Association.

23 And I'm here representing my members in extremely
24 strong support of Mark Hutchinson. And you will hear many
25 accounts of his consequence, and you have his experience,
26 skills, and other information of that sort before you.

27 But I wants to speak for just a moment to a
28 remarkable trait in his character, and I'll do it very briefly

1 in two examples.

2 The first is, as a new potential appointee, he
3 came to the assistance of not my largest member but my smallest
4 member and provided wise counsel, good direction, good advice
5 and honest brokerage for them in dealing with what for them was
6 a profound problem.

7 The second illustration of the point I wish to
8 make to you is his ability to generate the support of all of the
9 different parts of our often fractious community. Mark is an
10 honest broker, an insightful and wise counselor who helps us
11 work better together, along with his colleagues in DDS,
12 especially his Director, Terry Delgadillo.

13 We are grateful to have this profound team come
14 together, and we're grateful for your attention to the issues
15 that they represent and solve, and for the need to find good and
16 helpful ways to provide support and services for these folks in
17 our communities.

18 Thank you for your time.

19 SENATOR ASHBURN: Thank you.

20 MR. PASCOVER: Senators, my name is Doug
21 Pascover. I'm the Executive Director of Arriba ILS, and an
22 affiliate with the California Disability Community Action
23 Network.

24 We very much have appreciated over the years the
25 constructive engagement of DDS in trying to help the system
26 which is very complex, as you know, perform well for the people
27 we serve. Mark is an important asset in DDS's ability to do
28 that, so we strongly support him.

1 SENATOR ASHBURN: Thank you, sir.

2 DR. CHU: Good afternoon, leaders and wise
3 Chairman, Mr. Roy Ashburn.

4 My name is Dr. Connie Chu. I'm a CEO from
5 Empowerment Institute in Fresno, California. Empowerment
6 Institute is serving the numerous refugees with disabilities
7 here in Central California, and we are grateful for DDS work in
8 helping our communities, our country, and to be independent in
9 this new culture.

10 And wanted to strongly encourage you that we
11 support and really need people of Mr. Ashburn's [sic] caliber
12 and really wish that you consider him.

13 Thank you.

14 MR. MEADOURS: My name is Joe Meadours,
15 Executive Director of People First of California, the only group
16 in the state full of people with developmental disabilities.

17 We strongly support Mark and the department's
18 movement headed to the right direction for the youth movement,
19 because we believe that's the next generation. If we don't help
20 them, we'll be facing our problems again. We strongly support
21 you.

22 Thank you very much.

23 SENATOR ASHBURN: Thank you, sir.

24 Other witnesses in support? Anyone like to speak
25 in opposition to the nominee? I don't see anyone moving.
26 That's a good sign.

27 Do you have family?

28 MR. HUTCHINSON: Yes, I do, Senator.

1 In the second row I actually have my immediate
2 family: Sal, my brother Tom and his wife Maria.

3 And then I also have long time colleagues from
4 the Department of Rehabilitation as well as current colleagues
5 at DDS.

6 SENATOR ASHBURN: Great. We welcome you all and
7 appreciate you being here.

8 SENATOR PADILLA: Move.

9 SENATOR ASHBURN: We have a motion from Senator
10 Padilla to approve the nominee.

11 SECRETARY WEBB: Cedillo.

12 SENATOR CEDILLO: Aye.

13 SECRETARY WEBB: Cedillo Aye. Dutton.

14 SENATOR DUTTON: Aye.

15 SECRETARY WEBB: Dutton Aye. Padilla.

16 SENATOR PADILLA: Aye.

17 SECRETARY WEBB: Padilla Aye. Ashburn.

18 SENATOR ASHBURN: Aye.

19 SECRETARY WEBB: Ashburn Aye. Four to zero.

20 SENATOR ASHBURN: Congratulations.

21 MR. HUTCHINSON: Thank you.

22 SENATOR ASHBURN: Our next nominees are both
23 Chief Deputy Directors for the Health Care Services Department,
24 so I'm going to ask Karen T. Johnson and Stanley Rosenstein to
25 please come forward.

26 There you are. Welcome.

27 MS. JOHNSON: Thank you.

28 SENATOR ASHBURN: We'll just pause a moment while

1 the doors open and people are exiting.

2 Welcome, and I'll ask Ms. Johnson first if you'd
3 like to go first with your opening statement.

4 MS. JOHNSON: Certainly. Good afternoon, Senator
5 Ashburn and Members of the Committee. Thank you for considering
6 my appointment today.

7 The mission of the Department of Health Care
8 Services is to preserve and improve the health status of all
9 Californians. Each and every day our programs administer, touch
10 the lives, of nearly seven million Californians.

11 For the fiscal year 2008-2009, the Governor's
12 budget provides a total of 37.1 billion. I understand that this
13 is a huge program with huge amounts of responsibility. In my
14 position, I have the responsibility to oversee the
15 Administrative and Support Divisions, as well as the robust
16 Audits and Investigations Division.

17 The health care program simply cannot succeed
18 without a strong infrastructure. I have nearly 20 years of
19 professional experience. I received my Bachelor of Science
20 degree in business administration. I received my CPA license
21 from the State of California, Board of Accountancy.

22 I started my career with a local CPA firm, and
23 then joined the United States Department of Defense as an
24 auditor of major defense contractors.

25 I joined the State of California in 1989. With
26 the state I worked in several state departments and held
27 positions such as auditor, audit director, director of
28 administrative services, deputy director of administrative

1 division, and Special Assistant and Executive Director of the
2 State Board of Food and Agriculture.

3 Now serving as the administrative executive of
4 the Department of Health Care Services, I believe I can continue
5 to do my part to change the face of government and also deliver
6 results.

7 The goals that I hope to achieve at Health Care
8 Services include the following: building a strong workforce.
9 Today, estimates reflect that more than 35 percent of the
10 current workforce is eligible to retire in the next five years.
11 I will continue the efforts to build an effective recruitment
12 and retention strategy, as well as to dedicate a workforce
13 office that focuses on closing the gaps.

14 Additionally, I will continue to do more with
15 less. It is important to leverage technology to create
16 efficiency and effectiveness that will improve our operations. I
17 will move cautiously and carefully to address the replacement of
18 our legacy systems.

19 Furthermore, I will continue to improve the
20 fiscal integrity of our programs. As the executive charged with
21 the oversight of Audits and Investigation as well as a former
22 auditor, I will work to ensure that public dollars are spent for
23 purposes intended and to ensure that Medi-Cal providers are
24 treated fairly in conducting that work.

25 I believe it's important to continue the open and
26 frequent communications with our stakeholders. I also believe
27 that it's important to strengthen operations and focus efforts
28 on issues on issuing regulations that will further develop the

1 mission and goals. I'm now working with senior management team
2 to develop a new strategic plan.

3 While the position is extremely challenging, I
4 believe I can make a difference.

5 I appreciate the opportunity to be here before
6 you today. It is truly an honor and a privilege to serve as a
7 public servant. I appreciate being considered for the Chief
8 Deputy Director position.

9 Thank you.

10 SENATOR ASHBURN: Thank you very much.

11 MR. ROSENSTEIN: Good afternoon, Senator Ashburn,
12 Members of the Committee.

13 Thank you for considering my appointment to the
14 other Chief Deputy with the Department of Health Care Services.
15 It's an honor to be here today. I am so very privileged to be
16 here.

17 I've held an executive position with the State of
18 California for over 21 years. I've had opportunity to work for
19 many legislatures and four -- and with four governors. I have
20 served 11 years as one of the top executives in the Medi-Cal
21 program. Over all, I have over 30 years of state experience,
22 most of which is in the health care programs of California.

23 This experience has allowed me to become a leader
24 and an expert in state health care programs, specifically
25 Medicaid and Medi-Cal. I'm very privileged to be in a national
26 leadership position. I'm the Vice Chairman of the National
27 Medicaid Directors Association. It's a bipartisan association
28 to represent the interests of all state Medicaid programs.

1 I am routinely called upon to assist the
2 Legislature, other states, Congress, the federal administration
3 in establishing both -- you know, policy both state and
4 federal.

5 And I take particular pride in the work I have
6 done over the years to help maintain the safety net and address
7 financial problems of hospitals and other providers. I know
8 because of my work there are hospitals in this state that are
9 open because of what I've been able to do to assist them. I'm
10 very proud of what I've been able to do.

11 The department has a very vital mission. We are
12 critical to the health care of over 7 million people in
13 California who receive their care from our programs.
14 Additionally, we are a major source of reimbursement for
15 providers and the life blood of the safety net of all hospitals
16 and clinics, many of which we all depend on for our day-to-day
17 health care.

18 The department arranges for and pays for the
19 health care benefits of beneficiaries for a number of health
20 care programs. Our two biggest ones are Medi-Cal and the
21 California Children's Services Program. These are vital health
22 care programs to the state to the providers who treat our
23 beneficiaries.

24 The department, as Karen had mentioned, spends
25 \$37 billion dollars annually. That's an enormous sum of money.
26 We take that with great responsibility.

27 We are facing very difficult budget times, and
28 very difficult budget reductions in the Medi-Cal program this

1 year. Managing these programs requires strong leaders who serve
2 with the utmost of integrity, with compassion and with
3 professionalism, and will ensure that our patients and our
4 clients are served, and that the funds that we use are spent
5 appropriately, and that fraud, waste and abuse are controlled.

6 As Chief Deputy Director of Health Care Programs,
7 I will have the responsibility, and I do have responsibility,
8 for managing all the health care programs in the department.
9 This is an enormous task, but one for which I believe I'm very
10 well qualified.

11 Let me briefly go over my goals I'd like to
12 accomplish. I'd like to accomplish to ensure that the
13 reorganization of the two departments and the creation of the
14 Department of Health Care Services is effective. We've got to
15 be effective -- more effective and responsive to the public. We
16 need to improve how we purchase health care services, be it from
17 providers, manufacturers of health plans. We need to get the
18 best value possible for the federal dollars -- for the state and
19 federal dollars we spend.

20 We need improve our administrative functions. We
21 need to do a better job of enrolling providers, and processing
22 our claims, and doing treatment authorization requests. We want
23 to spent a lot of time improving the California Children's
24 Services Program.

25 We want to promote the enrollment of eligible
26 people in the Medi-Cal program and the other programs we
27 operate.

28 We need to continue to work and focus on ensuring

1 the viability of our safety net. They face very real
2 challenges. This is an area where we can get federal assistance
3 and have been successful. We need to continue to press to
4 ensure our safety net is there for all of us.

5 We need to reduce fraud and waste in our
6 programs. We can't afford to pay for fraud or waste. Fraud or
7 waste cannot be tolerated.

8 And last but not least, very importantly, we need
9 to advance the federal Olmstead Decision in California by
10 improving long-term care programs and providing programs that
11 provide Medi-Cal beneficiaries with the opportunity to receive
12 long-term care services in their homes and communities rather
13 than nursing facilities.

14 I appreciate the opportunity to be here before
15 you today. It is again an honor and a privilege to be here and
16 be public servant for California. I am happy to be considered
17 for this important job as the Chief Deputy Director.

18 SENATOR ASHBURN: Thank you very much,
19 Mr. Rosenstein.

20 I'll ask Members of the Committee if they have
21 questions? Senator Dutton.

22 SENATOR DUTTON: My questions have to do
23 primarily with budget and that type of thing. I just have
24 actually a couple of questions.

25 First of all, I want to thank both of you for
26 spending the time that we did together. You actually managed to
27 shed a lot of light on the different challenges that you both
28 face.

1 I am curious, Ms. Johnson, you responded to one
2 of my questions about the percentage of emergency care services
3 provided on an outpatient basis. I guess what it was, they're
4 not audited or reviewed.

5 Do you know what percentage of services are
6 performed on an outpatient basis within our emergency rooms?

7 MS. JOHNSON: I don't have the specifics, but I
8 would be more than happy to get back to you on that question.

9 SENATOR DUTTON: I appreciate that.

10 Also with regard to it not being audited and so
11 forth, is there a reason why we don't?

12 MS. JOHNSON: One of the things that we do is
13 that we have a zero tolerance policy for fraud, waste, and abuse
14 in our program.

15 We also believe that any loss of public funds due
16 to errors and fraud is not acceptable.

17 We do engage in our annual study of the Medi-Cal
18 Payment Errors Study to hope -- help identify fraud schemes and
19 also potential errors.

20 We do perform a hundred random claims sampling on
21 a weekly basis, as well as to provider billing reviews. And we
22 conduct financial audits of our acute hospitals as well. So, we
23 would be looking at the expenditures on the emergency care
24 services to ensure that the reimbursement that we're providing
25 is sufficient and reasonable and within the required
26 regulations.

27 SENATOR DUTTON: So actually, I was looking at it
28 that we were not auditing, but actually we do. It's on a random

1 basis?

2 MS. JOHNSON: That is correct.

3 SENATOR DUTTON: And then for both of you, I
4 understand the annual Medi-Cal Payment Error Report was just
5 released. It was due a year ago, but it's just now been
6 released.

7 When can we expect a more updated document?

8 MS. JOHNSON: I apologize for the delay of the
9 report. We are currently conducting the current Medi-Cal
10 Payment Error Study, and we're hoping to have that completed in
11 about eight to nine months.

12 But we are constantly doing reviews, as I
13 mentioned, with the random claim reviews, and we're working
14 closely with our programs to ensure that we identify any fraud
15 and eliminate and reduce it.

16 SENATOR DUTTON: I can imagine a lot of us are
17 probably going to be real interested in that information as
18 quickly as possible, due to the huge challenges we're having
19 right now, preparing for next year's budget.

20 So, if you can, at least get us some preliminary
21 information beforehand of something so we can kind of take a
22 look at what the needs are going to be.

23 So, thank you.

24 SENATOR ASHBURN: Senator Padilla.

25 SENATOR PADILLA: Several questions, most of
26 which are on the programmatic side, so I imagine they'll go to
27 Mr. Rosenstein.

28 Picking up on this topic here of fraud, I just

1 wanted to inquire what the status is of the Multi-Departmental
2 Anti-Fraud Strategic Plan Workgroup? Since the word "plan" is
3 in the name of the workgroup, I imagine there's a plan
4 forthcoming?

5 MS. JOHNSON: We do currently meet frequently
6 with our federal, state and local partners.

7 We are meeting to discuss fraud initiatives and
8 ways that we can identify. But it is a work group that has been
9 formed, and we discuss our strategies, and we will have
10 something for -- for you in the next few months.

11 SENATOR PADILLA: You mentioned you meet
12 frequently. How frequently do you meet?

13 MS. JOHNSON: We meet on a monthly basis.

14 SENATOR PADILLA: Monthly basis.

15 MS. JOHNSON: Yes.

16 SENATOR PADILLA: And it's been meeting for how
17 long?

18 MS. JOHNSON: It's been meeting for the last six
19 months, but prior to that time we did have informal meetings
20 where it was -- we were continuing to meet frequently. We just
21 now have formalized the structure.

22 SENATOR PADILLA: Do you have either a deadline
23 or at least a goal, a date, by which to have a report ready?

24 MS. JOHNSON: I believe that they're currently
25 working on that strategy right now. But we hope to have it
26 within a couple of months.

27 SENATOR PADILLA: Two-three months, five-six
28 months?

1 MS. JOHNSON: I would say about three months.

2 SENATOR PADILLA: On the programmatic side of
3 things, Medi-Cal's the second biggest program in the state,
4 second only to K-12 education. From the information we have, 80
5 percent of the costs are driven by 10 percent of the
6 beneficiaries -- the elderly and most seriously disabled.

7 With the looming retirement wave that we've been
8 talking about, where we asked the succession planning question
9 to everybody that comes before us, it seems that the elderly
10 category of that group is going to boom also.

11 How is this going to affect Medi-Cal demands and
12 costs, given that the elderly population is one of the largest
13 areas from a cost side for the program? And in turn, what does
14 the proposed 10 percent cut do for services?

15 MR. ROSENSTEIN: You've hit it exactly right, the
16 issue on Medi-Cal, that we actually cover people at both ends,
17 at the most expensive sides when they're being born, and when
18 they age and they get older, and more chronic care conditions.

19 We are -- payments are very concentrated. So
20 what we have tried to do to address it, because you've got to
21 address the chronic health care conditions of people to be able
22 to reduce costs, we are now into two pilot programs for disease
23 management. We are moving to contract with another vendor to do
24 chronic care management to get in and really try to manage from
25 a medical standpoint the care that people get so that their
26 health improves, and it saves us some money because as their
27 health improves, we pay less costs.

28 So we -- we are well into piloting how do we

1 manage chronic health care to, you know, reduce the cost,
2 because that is where are cost drivers are.

3 The other big cost driver we see is long-term
4 care. So, that's what we've focused on, Olmstead, and we're
5 focused on making sure people can get out of nursing homes.
6 It's a difficult issue because of state budgetary issues, but we
7 are moving to try to address nursing home care costs from a
8 number of aspects.

9 And then lastly, high drug utilization is a cost
10 item. We have a very strong program. We're trying to get
11 reduced drug costs through drug rebates.

12 But as we see the aging process of Medi-Cal,
13 Medicaid is right in the middle of it, especially as the Baby
14 Boomers hit nursing home age. It will be very significant.

15 SENATOR PADILLA: You just gave me three great
16 examples of how costs are expected to rise and rise
17 significantly.

18 So, how are we supposed to resolve that with the
19 proposed 10 percent cut to the program and reimbursement rates?

20 MR. ROSENSTEIN: The 10 percent cuts are
21 difficult. What we've tried to do with the 10 percent cuts is
22 to avoid cutting services to the extent we could that rose costs
23 in other areas. We have -- we do have some of that, as you well
24 know, being on the Budget Committee.

25 But I think the services that keep people out of
26 nursing homes, optional benefits such as neural medical
27 equipment and products, we're not putting it as reductions. So,
28 we've tried, to the extent we can manage to avoid those costs.

1 Because Medi-Cal is so big, as you know, we have
2 to be a part of the process.

3 Ultimately, the solution for the problems of
4 Medi-Cal have got to be in better managing chronic health care
5 conditions, because that is what's driving the cost. And if we
6 can't get control over the treatment and improvement of chronic
7 health care conditions, we are into even bigger problems in
8 future years.

9 SENATOR PADILLA: And you know me not only from
10 Budget Subcommittee, but also from the Senate Select Committee
11 on Obesity and Diabetes. You mentioned chronic disease.
12 Diabetes is especially growing in epidemic proportions, and
13 therefore the costs and health implications of that ten years
14 from now.

15 Do you feel we're on track for having both the
16 internal capacity and the service provider capacity to handle
17 the workload ten years from now if we stay on the track that we
18 are, with an aging population and a chronic disease increase?

19 MR. ROSENSTEIN: No, I don't think we are. You
20 know, one of the things we did, the department did put forward,
21 which I thought was very good, as part of the Governor's Health
22 Care Reform proposal was a diabetes initiative. What we really
23 tried to focus on in talking to the experts was in the
24 pre-diabetes stage, to try to address it before people
25 progressed to being a diabetic.

26 We need to put tremendous investment for
27 diabetes, in particular in prevention, or we are going to have
28 an unaffordable crisis. We don't have the care workers to

1 handle what's coming.

2 SENATOR PADILLA: I'm looking forward to working
3 with you and others on how we get at that diabetes prevention or
4 obesity prevention piece running, independent of the greater
5 health care reform.

6 MR. ROSENSTEIN: I don't know if you had a chance
7 to look at it, but I thought it was a great proposal. So, it's
8 worth having a discussion about.

9 SENATOR PADILLA: No, the proposal was fine, but
10 it was, you know, lumped in with basic health care reform, and
11 we know the fate of that.

12 I don't think we can wait for however long it's
13 going to take to get a comprehensive reform of our health care
14 infrastructure in California to make significant headway in
15 disease prevention.

16 MR. ROSENSTEIN: We'd be very interested in
17 having those discussions.

18 SENATOR PADILLA: I mentioned the Medi-Cal
19 reimbursement issue just a minute ago. Many health care plans,
20 including Partnership Health in Senator Machado's district, are
21 worried about whether they can continue to do business with the
22 state, given the current and proposed reimbursement rates.
23 They're concerned that rates aren't or won't be sufficient to
24 maintain contracts with local providers, especially in areas
25 where hospital beds are expensive because there's a lack of
26 competition.

27 How are you working to address these concerns
28 with the plans?

1 MR. ROSENSTEIN: Difficult times with the 10
2 percent provider rate reduction, which will apply to plans.

3 We are telling plans that we're assuming they are
4 going to pass it on, so it's not a loss to them.

5 We did implement last year a new rate methodology
6 that is experience-based, that uses their cost, their data. We
7 have the data from the plans now, including Partnership. We are
8 analyzing it. We'll be -- we're preparing a proposal for the
9 May Revise. We'll be coming forward with that proposal.

10 And I personally worked very closely with
11 Partnership. And we've asked them really to be patient to the
12 May Revise. And We think we'll be in a much better position to
13 talk about the solutions to Partnership.

14 We do recognize they and a number of our clients
15 have financial problems. They're important partners to us. We
16 want them to be in business with us, and providing care to
17 Medi-Cal beneficiaries.

18 SENATOR PADILLA: So, that's what you're doing
19 with the plans themselves.

20 Anything different or additional that you are
21 doing or discussing directly with physicians? Are you
22 discussing anything different, or in addition to what you're
23 discussing with health plans?

24 MR. ROSENSTEIN: We are discussing with
25 physicians the rate reduction. As you well know, they're not
26 happy with it, as well as a number of providers.

27 We are -- I mean, it is very difficult times, and
28 we are asking them to -- the traditional providers, to stay with

1 us, to recognize it's difficult.

2 But unfortunately, everybody has to take their
3 share of the reduction, and to stay with us, and recognize the
4 importance of the care they provide to our population.

5 But they're not happy, as you well know.

6 SENATOR PADILLA: Well, is there a recognition,
7 formal or otherwise, from the department of the choice that
8 physicians are having to make as we continue to reduce the
9 reimbursement rates?

10 They're just not going to stay in business, a lot
11 of them. We already have cases throughout the state where
12 people are refusing to see patients not only because it doesn't
13 pencil out, but it's on the verge of dooming their business.

14 MR. ROSENSTEIN: Absolutely, there's a
15 recognition that the impact and the difficulty, the hard choice
16 that the Legislature and the administration had to make on the
17 rate reduction, we recognize it. We're working with them. It
18 was a hard choice to make, and we're just trying to keep our
19 network in place the best we can, given that choice.

20 SENATOR PADILLA: And part and parcel with the
21 reimbursement rates, I've heard from plans, and especially from
22 physicians, the timeliness of reimbursements.

23 Any specific efforts or initiatives in the last
24 two, three years that have been undertaken to improve the
25 timeliness of reimbursements?

26 MR. ROSENSTEIN: Yes. Two areas very recently.
27 We hear quite a bit about our provider enrollment, and the
28 delays in provider enrollment.

1 We have made major steps to improve the speed in
2 which we enroll providers. We worked with the CMA last year on
3 legislation that actually reduces the time we have to produce
4 provider legislatively in half.

5 The second area that we're spending a lot of
6 attention to is our prior authorization process, our field
7 offices. That is a cause of delay. We've had some backlogs.

8 Generally our claims processing system, when you
9 look at our statistics once a claim gets in, we process
10 generally faster than most commercial insurance. So, our claims
11 processing system works pretty well. In fact, I've heard
12 physicians compare managed care plans to us, and ask they be as
13 fast as Medi-Cal.

14 But we've had the delays in prior authorization
15 and provider enrollment. We've made major steps to improve
16 those, and we still have more to do.

17 SENATOR PADILLA: So, you're earning your
18 nickname here, Mr. Medi-Cal.

19 MR. ROSENSTEIN: Yeah. I've dedicated my life to
20 that program, so it's important to me.

21 SENATOR PADILLA: I hope we have you for many,
22 many years to come.

23 MR. ROSENSTEIN: Thank you.

24 SENATOR PADILLA: What happens the day that you
25 retire?

26 MR. ROSENSTEIN: Well that, you know, succession
27 planning is enormous. One of the reasons I did -- I assume
28 people know I almost retired. One of the reasons I did stay was

1 to build a succession to me.

2 We've built a new team of managers. We probably
3 have a younger management group than developmental services. We
4 are building management. We're hiring new people from the
5 outside, and we are trying to build a succession plan. It's a
6 major issue.

7 And a personal succession plan for me.

8 SENATOR PADILLA: I want to talk about the
9 counties for a little bit. There's a streamlined, easy-to-read,
10 1200-page policy manual on Medi-Cal, since they're the ones that
11 are primarily directed to do enrollment. And in addition to
12 that, we have the 590 "All County Welfare Director Letters."

13 Can you describe what the relationship is, and
14 how we go about working with counties to ensure that they know
15 what they need to do and can comply?

16 MR. ROSENSTEIN: Medi-Cal, an understatement
17 would be that Medi-Cal is a complex program.

18 We have a lot of different categories of people
19 who are eligible for it, what makes people eligible.

20 We've clearly heard the message that our
21 relationship with counties needed to be improved. We now have
22 our management working monthly with leadership of the
23 association and the counties. We are picking items to work on
24 and working through the process of improving it.

25 The one we're working on now is the documents
26 called Notice of Actions that we send to Medi-Cal beneficiaries
27 in a formula. We've got a workgroup with the counties, and
28 we're just sitting down with the counties and advocates and

1 redoing process after process to simplify it.

2 About a month ago, we issued a brand-new
3 application, simplified the enrollment to Medi-Cal, keeping the
4 program's integrity. So, we finished the new application.
5 We're now working on the notices.

6 We're going to -- it's a complicated process.
7 We're going to take it step-by-step. We are committed to
8 improving the process, improving our relationship.

9 SENATOR PADILLA: Another specific example, there
10 was an initial All County Letter that went out after the Deficit
11 Reduction Act at the federal level.

12 Has there been a follow-up to that, or a second
13 letter that's come out after the state's added its policies and
14 procedures?

15 MR. ROSENSTEIN: I'm not sure if there was a
16 second letter. We -- that, I think most people would agree, has
17 been a success story of implementation.

18 I don't know if we did a follow-up letter. We
19 worked very closely with the counties and stakeholders to come
20 up with a pretty definitive process that met the federal
21 requirements.

22 We have worked with the counties very closely on
23 their training. We get county feedback.

24 I don't know if we've done another letter, but
25 that's actually an area I hear very positive feedback from
26 advocates in the counties.

27 SENATOR PADILLA: And I hear the same. I just
28 want to make sure, have there been any additional changes that

1 we need to call to their attention?

2 MR. ROSENSTEIN: There may have been. Nothing of
3 -- nothing notable that reached my level.

4 SENATOR PADILLA: In brushing up for this hearing
5 today, this concept of an All County Letter concept versus
6 regulation, I'm wondering what would make the choice to issue an
7 All County Letter versus to go through a regulatory making
8 process? How do you decide which to pursue?

9 MR. ROSENSTEIN: We do use All County Letters
10 when people want things done quickly.

11 What we have not done a good enough job on is
12 following it up with regulations. And we are committed to work
13 on, and build, and process regulations that codify our
14 eligibility process.

15 SENATOR PADILLA: When was the last time there
16 was a regulation change or update?

17 MS. JOHNSON: My area of responsibility would be
18 in the regulatory packages in the development.

19 We were able to complete four regulatory packages
20 last year. I acknowledge that there is a backlog of
21 regulations, and that we will continue to focus our efforts in
22 this area.

23 SENATOR PADILLA: And prior to last year, how
24 long had it been since the previous?

25 MS. JOHNSON: I believe regulations have been
26 issued on a regular basis, but there is a backlog of regulations
27 that we have. I'm committing resources to make sure that we
28 complete those regulations. I'm working with the programs to

1 identify those regulatory packages and also specify the
2 timeframes for those completions.

3 SENATOR PADILLA: My understanding is that it had
4 been about 15 years since the last regulations.

5 So, I look forward to working with you to catch
6 up quickly.

7 MS. JOHNSON: Okay.

8 SENATOR PADILLA: Thank you.

9 SENATOR ASHBURN: Senator Cedillo.

10 SENATOR CEDILLO: Just some real simple little
11 questions.

12 With respect to the quarterly reports, my
13 favorites, what's the downside on that if we move forward as
14 proposed?

15 MR. ROSENSTEIN: Well, let me talk about the
16 positive side first.

17 We've tried to build a proposal that has checks
18 and balances, so it's not the old quarterly report of the old
19 days. It's a very simple form: Check the box, sign, postage
20 paid envelope.

21 Several points where people, if they forgot to
22 submit it, they can come back to the county and get back on the
23 program within the first 30 days with no break.

24 It does guard against --

25 SENATOR CEDILLO: Get back to the county and get
26 back on with no break within 30 days?

27 MR. ROSENSTEIN: Right. What happen is, we mail
28 out the form. If they don't respond to it, we send a second

1 notice. They've got 10 days to respond. If they respond to it,
2 they remain eligible. If they then don't respond, lose the
3 eligibility and find out why they lost eligibility basically by
4 going to the doctor, they can come back to the county. They get
5 in with no break of coverage for the first month.

6 The negative side is, if there is a break of
7 coverage and they want care, then after that first month they do
8 have to come in and reapply. People do get on. They get
9 covered for that month and retroactive.

10 It's really -- the difficult situation in our
11 budget situation is the balance between we have to have savings.
12 The way our current process works is, we could have somebody go
13 ineligible, and then we could pay for their care for 11 months
14 when they're ineligible.

15 So, this speeds up the ability for us to find out
16 who is ineligible so that we can reduce payments without paying
17 for eligible people. We are trying to make this as simple as we
18 can, but we're facing very difficult budget cuts.

19 SENATOR CEDILLO: The down side?

20 MR. ROSENSTEIN: The down side is, some families
21 will ignore the form, ignore the warning and lose eligibility
22 who are eligible, and then really have to come back in and
23 reapply.

24 SENATOR CEDILLO: Have you guys done a cost
25 analysis of this kind of new process? What's the cost?

26 MR. ROSENSTEIN: We've done a fiscal analysis
27 that it does have savings. It does have some increased county
28 administrative costs, but also some offsetting costs.

1 SENATOR CEDILLO: What's the increased costs?

2 MR. ROSENSTEIN: We don't have an exact number,
3 but it'll be an increase in admin costs, but there'll be less
4 cases because we won't be carrying cases for people who are no
5 longer eligible.

6 SENATOR CEDILLO: So, what are we going to do to
7 make the reimbursements more provider friendly? What plans do
8 you have?

9 When we interface with you now, it's mostly
10 because we have providers in our district who come to us and say
11 look, they're getting threats; we may lose their services. They
12 can't provide.

13 It's not even so much the reimbursement rate.
14 That aside, it's just the ability to be reimbursed and the
15 entire process.

16 So, how do we make that more friendly to engage
17 more providers in the community?

18 MR. ROSENSTEIN: Yeah, and looking at the
19 complaints we've gotten, and the issues we generally face, they
20 come down to provider enrollment and prior authorization as the
21 two areas.

22 We were complicating provider enrollment because
23 the federal government changed the provider number, but I don't
24 want to make excuses.

25 So, what we've done is, we've dedicated resources
26 directly to it from the department. We've had -- our staff have
27 gone through and really streamlined the process. We worked with
28 the California Medical Association to actually figure out how to

1 do this thing in half the time. We eliminated some unnecessary
2 requirements, so we've made improvements.

3 Our time has dropped. We are -- because of the
4 federal change, we are seeing a slight -- an increase now, but
5 we made major improvements in enrollment. We need to do more.

6 Prior authorization is another area we hear a lot
7 of complaints about. We hear it particularly in Los Angeles.
8 And we've got group of staff working with the hospitals in Los
9 Angeles in particular to do what we are calling recalibrating
10 our prior authorization process to make sure we're protecting
11 the taxpayers correctly, authorizing services, but we're not --
12 we're not unfairly treating providers.

13 So, we've will actually good feedback from the
14 process from the Hospital Association of Southern California.
15 We do have a problem in Southern California that we're working
16 on to address.

17 SENATOR CEDILLO: Your thoughts on where we're at
18 with respect to aged, blind and disabled prospects for managed
19 care for that community or not.

20 The inverse would be whether we can roll
21 everybody back to a fee for service.

22 MR. ROSENSTEIN: We spent a lot of time here at
23 the Capitol on that. I think where we -- the administration and
24 the Legislature has agreed upon is several steps.

25 One, we want to encourage voluntary enrollment
26 into managed care, and we are working with the University of
27 California at Berkeley to do that and pilot.

28 Two, we want to have stronger performance

1 standards for the health plans for treating the managed care
2 population. We worked with the California Health Care
3 Foundation to do that, and we're in process now, and the
4 Legislature gave us resources, to implement those
5 recommendations and have better performance standards.

6 We are at voluntary enrollment for the disabled
7 population. We hope some day that the climate will change to be
8 mandatory. We're not proposing that. You won't see any
9 proposals from the administration to do that, but what we really
10 believe now is, we've got to make managed care work well on a
11 voluntary basis.

12 SENATOR CEDILLO: Why would a young man like you
13 want to consider retirement when you're at the top of your game?

14 [Laughter.]

15 MR. ROSENSTEIN: I don't know. I was almost
16 gone, and I was happy that the Governor asked me to come back.

17 I get up every morning, and I recognize the
18 importance of what we do here. It's incredibly important. I'm
19 highly honored to be able to do it and make a contribution to
20 the people of California.

21 SENATOR CEDILLO: Thank you.

22 SENATOR ASHBURN: Thank you.

23 We'll now turn to witnesses who would like to
24 speak in support of either or both of our nominees.

25 MS. THOMAS: Mr. Chairman and Members, Terri
26 Thomas here today on behalf of the California Association of
27 Public Hospitals and Health Systems.

28 Although our public hospitals represent only six

1 percent of the hospitals in the state, we provide over 50
2 percent of the care to the uninsured. So, as you can imagine,
3 we spend an intense amount of time dealing with Mr. Rosenstein
4 and the Medi-Cal program.

5 And I can tell you that there is -- we have
6 worked with him for over 20 years, and there is absolutely no
7 one who has the level of expertise that Stan has in this
8 program.

9 I can also say, and I appreciate the comments
10 from Senator Padilla and Senator Cedillo about some of the
11 proposed cuts in the budget. We are equally concerned about
12 many of those proposed cuts, especially the cut to the safety
13 net care pool.

14 However, we believe it's really important to
15 separate the considerations of the proposals which
16 Mr. Rosenstein might be charged with carrying out, with
17 determining the level of expertise that you want in an
18 individual to help guide this very, very important program. And
19 we come down on the side of having someone there who, despite
20 the fact that we don't always agree on every issue, has never,
21 ever denied us access, has always given us an opportunity to
22 state our case, and has many, many times gone with us
23 hand-in-hand to the federal government to help try to find more
24 funding for this program.

25 So, we are very proud and pleased to support his
26 confirmation and urge your consideration of that.

27 And I would also like to add on a personal note,
28 I've known Stan for more years than the public hospitals have

1 worked with him, and I don't think that you will find a person
2 with greater integrity and higher ethics than Stan Rosenstein.
3 Thank you.

4 SENATOR ASHBURN: Thank you.

5 MR. OMOTO: Marty Omoto, Director of the
6 California Disability Community Action Network.

7 Again, I'm here as an advocate but also because
8 of my sister. She was a Medi-Cal and Medicare recipient.

9 And as a disability advocate and a family member,
10 we strongly oppose almost all the cuts that were proposed and is
11 proposed by the administration regarding Medi-Cal.

12 So, why would an advocate who has organized
13 protests on the Capitol lawn strongly support Stan Rosenstein?
14 Because leadership makes a difference. And good leadership
15 makes a difference, especially in difficult times.

16 And as a couple of examples, on the Medicare Part
17 D implementation, when it was -- a lot of people with
18 disabilities and seniors were panicking about how that would be
19 implemented, and fearing the loss of their drugs and
20 prescriptions, and Stan's intervention, and intervention of the
21 Department of Health Care Services made a difference. It saved
22 lives.

23 The other is the implementation of the Deficit
24 Reduction Act, and you mentioned that. Well, Senator Padilla
25 mention that, and the citizenship requirements.

26 And the Department under Stan, under Stan
27 Rosenstein, was very sensitive on how they worked with
28 stakeholders in trying to minimize in damage of that -- of that

1 act. And I think a lot of us in the communities really
2 appreciate his leadership.

3 Lastly, he has always participated in town hall
4 meetings that we've organized since 2003 that involve thousands
5 of people with disabilities, and seniors, and low-income people
6 across the state, who have the opportunity for the first time to
7 talk to a public official directly. And he's been open, and
8 he's been candid, and he's been willing to participate in those,
9 even when he was going to be criticized.

10 My sister and my family were -- had to deal with
11 the Medi-Cal and Medicare system until her passing in 2003, and
12 it was awful. It was awful. There were times when hospitals
13 would call, and when her Medicare would run out, and would want
14 me to take her out of the hospital. And there was doctors who
15 would no longer see her or treat her because Medi-Cal rates were
16 so low.

17 So, all the things that you've talked about are
18 true. But all the things I've mentioned about Stan are true,
19 too.

20 And for families like me and advocates like me,
21 when leadership is there in Sacramento like Stan Rosenstein, it
22 really makes a difference. And as an advocate, as a family
23 member, and for my sister's memory, I'm grateful for a man of
24 his decency and his commitment and his experience.

25 Strong support.

26 SENATOR ASHBURN: Thank you, sir.

27 MS. DOOLEY: I'm Diana Dooley with the California
28 Children's Hospital Association. I won't take a lot of your

1 time.

2 I'm Diana Dooley, the President and CEO of the
3 California Children's Hospital Association.

4 I'm sure we're all here today to speak to Stan's
5 integrity, his dedication, and his commitment. I echo the
6 comments of Ms. Thomas with the Public Hospitals.

7 The Children's Hospitals have many challenges,
8 and we've spoken with all of you about those many challenges. I
9 have worked with Stan in this professional capacity and my
10 capacity as General Counsel for one of our members in
11 Mr. Ashburn's area, and have known Stan for over 30 years. We
12 began our careers together at the State Personnel Board over 30
13 years ago.

14 I was very, very grateful that he accepted the
15 Governor's invitation not to take the retirement that he so
16 richly deserves, and I encourage you to support his
17 confirmation.

18 And I also congratulate Director Shewry for
19 putting the team that she has together. I think that she has
20 the leadership in this reorganized department to address the
21 concerns that we all know must be addressed.

22 Thank you.

23 SENATOR ASHBURN: Thank you very much.

24 MS. LOPEZ: Good afternoon, Senator Ashburn and
25 Senate Committee.

26 My name is Helen Lopez. I'm Assistant Director,
27 Chief of Staff, of the Governor's Office of Emergency Services.
28 I am here in support of Karen Johnson's appointment as the Chief

1 Deputy Director of Policy and Program Support at the Department
2 of Health Care Services.

3 I have known Karen Johnson since 1991, when I
4 joined the audit office of the Department of Food and
5 Agriculture. In the 17 years that I've known her, she has
6 always established herself as an effective leader with an
7 extensive background on a broad range of administrative issues.

8 She's an excellent team player and consistently
9 demonstrates her ability to work with diverse groups. In her
10 many roles, she has proven herself to be highly skilled in
11 building relationship and maintaining them in a manner that
12 accomplishes the goals and mission.

13 She has demonstrated professionalism, integrity,
14 and a good knowledge of state rules and regulations. Karen
15 Johnson has the credentials, commitment, and dedication that
16 will serve her well in this position.

17 Karen Johnson has been a mentor of mine and a
18 great friend of mine. I respectfully and highly encourage that
19 you support her appointment.

20 SENATOR ASHBURN: Thank you very much.

21 MS. BENETIZ: Ann Marie Benetiz with Planned
22 Parenthood Affiliates of California in strong support of Stan
23 Rosenstein, Mr. Stan Rosenstein's appointment.

24 He -- Planned Parenthood Affiliates of California
25 many clinics throughout the state, and we primarily serve
26 Medi-Cal and Family PACT beneficiaries. So, we have worked with
27 Mr. Rosenstein on several Medi-Cal policy issues. And every
28 time we are working with him, it is clear his commitment and

1 dedication to the program.

2 There is nobody else who has his leadership and
3 his experience in the state and in the nation, which is clear,
4 and where his position is now, and that many states look to his
5 experience and his dedication, and view him as the leader in
6 this program.

7 Therefore, we are in strong support of him, and
8 we are hoping he's here with us for quite sometime. Thank you.

9 SENATOR ASHBURN: Thank you.

10 MR. WALLACE: Hi, good afternoon, Committee
11 Members. My name is John Wallace. I'm the Chief of Staff for
12 L.A. Care Health Plan, the local initiative health plan in Los
13 Angeles County, with 750,000 Medi-Cal members.

14 We're here to strongly support Stan's
15 confirmation. Stan's knowledge of Medi-Cal and federal Medicaid
16 rules is really unparalleled and has leveraged billions of
17 federal dollars into our health care system.

18 Just to echo a lot of the statements about Stan's
19 integrity, the Medi-Cal program definitely faces challenges, but
20 without Stan's leadership, the situation would be much worse.

21 I've personally worked with Stan for many years,
22 both in this role and at Los Angeles County, and can tell you
23 that many Californians have received the health care they need
24 because of his efforts.

25 Thank you.

26 SENATOR ASHBURN: Thank you.

27 MR. ANDERSON: Tony Anderson, Executive Director
28 of The Arc.

1 I'm here in strong support of Stan Rosenstein's
2 appointment. As a member of the Secretary Belshe's Olmstead
3 Advisory Committee, Stan has been a participant, regular
4 participant, and very appreciative of his counsel to that
5 committee, and I know my colleagues are as well.

6 Also, I had a very proud moment not too long ago.
7 We are a national association, and our lobbyist team of
8 advocates in Washington, D.C. called me and said that we had
9 testimony here from California, very compelling and influential
10 testimony on what was going to happen to California on the
11 Medicaid regulations, and that it caused a great stir, and that
12 they were very appreciative to make that work even easier.

13 We also sent advocates to Washington, D.C. to
14 talk about these issues with our representatives in Congress
15 that were representing California. And Stan and his office were
16 very helpful to the advocates to get the information to us, so
17 we could then advocate on the issue there as well.

18 So, strong support.

19 SENATOR ASHBURN: Good. Thank you very much.

20 MS. ARMSTRONG: Good afternoon, Mr. Chair and
21 Members. Betsy Armstrong on behalf of the County Health
22 Executives Association and our President, David Souleles, and
23 urge your confirmation of Mr. Rosenstein.

24 SENATOR ASHBURN: Thank you.

25 MS. LAMIRAULT: Hi. My name is Ingrid Lamirault.
26 I'm the Chair of the Local Health Plans of California, which is
27 eight Medi-Cal managed care plans in the state, and we serve
28 over -- almost one-and-a-half [sic] Medi-Cal beneficiaries.

1 I'm also the CEO of Alameda County's Medi-Cal
2 managed care plan, here to testify in support of Stan
3 Rosenstein. He's committed to the Medi-Cal program. He's done
4 a lot to improve the program, while at the same time working
5 within the financial and operational constraints of the program.
6 He's a great partner. He's able to work with people who have
7 diverse agendas and needs, and we're actually to roll up our
8 sleeves and work with him.

9 And so, we urge your support of your confirmation
10 of Stan.

11 SENATOR ASHBURN: Thank you.

12 MS. GIN: Joanna Gin with SEIU Local 1000 in
13 support of Ms. Johnson.

14 We can definitely attest to her style of open
15 communication. She's been very engaging with labor.

16 We represent the state employees at BOE, and
17 Ms. Johnson proactively contacted us, in particular Margarita
18 Maldonado and also Yvonne Walker of our bargaining team, and had
19 several meetings to discuss the turnover in BOE employees, and
20 also how we can improve recruitment and retention. They all
21 applauded her and commented on how she was very receptive in
22 generating ideas.

23 And it is this kind of creative thinking and
24 solutions that we look forward to working with her in this
25 department and would encourage that as well.

26 Thank you.

27 SENATOR ASHBURN: Thank you very much.

28 MS. HERNANDEZ: Good afternoon. Mary Hernandez

1 with the SEIU State Council, echoing the comments of my
2 colleague, Ms. Gin -- there have been -- in support here of
3 Karen Johnson's confirmation.

4 There have been a lot of words to describe her,
5 her ethics, her work habits. The team player adjective and
6 diverse, being able to work with diverse groups are two things
7 that stuck out in my head because of her proven ability to work
8 with labor and to help think of creative ways to deal with the
9 retention and recruitment.

10 We look forward to continue working with her
11 during her tenure at DHS and support her confirmation. Thank
12 you.

13 SENATOR ASHBURN: Thank you.

14 DR. CHU: Good afternoon. My name is Connie Chu,
15 and I'm from Empowerment Institute. And I'm here representing
16 the Southeast Asian refugees here in the Central Valley.

17 We are very strong support of Karen Johnson and
18 Stan for the their posts.

19 MS. EKWALL: Good afternoon. My name Debbie
20 Ekwall, and I am here for Nancy Chance, the Executive Director
21 for Training Toward Self Reliance, to express our agency's
22 support for the confirmation of Stan Rosenstein.

23 Our agency, who serves over 400 people with
24 developmental disabilities has participated many in the CD Can
25 Town Hall telemeetings when Mr. Rosenstein has been a guest.
26 And he has always been willing to listen to our concerns as well
27 as answer questions in a thoughtful and respectful way.

28 Thank you.

1 SENATOR ASHBURN: Thank you.

2 MS. ROGERS: Hello. My name is Carla Rogers, and
3 I'm with Training Toward Self Reliance. I strongly support the
4 confirmation of Mr. Rosenstein.

5 I also wanted to add on a personal note that my
6 father is a recipient of Medi-Cal benefits. And without the
7 strong support and help of Mr. Rosenstein and his staff, my
8 father would not have the needed health care services that he
9 has today. I want to thank him for that.

10 Thank you.

11 SENATOR ASHBURN: Thank you.

12 MR. PASCOVER: Senators, I'm Doug Pascover from
13 Arriba Independent Living Services. We help adults with
14 developmental disabilities in the area between Los Angeles and
15 out to Yucaipa to become more self reliant.

16 Most of them receive Medi-Cal services, and
17 through Mr. Rosenstein's participation in the CD Can
18 Teleconferences, our clients would find it between difficult and
19 impossible to come here and engage the policy making process.
20 And through his openness, they've been able to engage in
21 dialogue with him.

22 We don't always love what he has to tell us, but
23 we sure appreciate his candor in talking to us. So, we do
24 support his nomination.

25 SENATOR ASHBURN: Thank you, sir.

26 MS. RIKER: My name is Jean Riker, and I'm a
27 member of California Disability Community Action Network and
28 also a board member on UCP Sacramento, and we all support,

1 strongly support the nomination.

2 Thank you.

3 SENATOR ASHBURN: Thank you.

4 Would anyone else like to speak in support?
5 Anyone dare step forward in opposition?

6 [Laughter.]

7 SENATOR ASHBURN: Do either of our nominees have
8 family or friends that they'd like to introduce?

9 MS. JOHNSON: Yes, I do. I have my daughter
10 hear, Brook Mainer, and then also my husband, Patrick Johnson,
11 and my Mom and Dad, Pat and Frank Clishson.

12 SENATOR ASHBURN: Great. Nice of you all to be
13 here.

14 MR. ROSENSTEIN: I have my wife Marcia, and my
15 oldest son Joshua, his girlfriend Cynthia, and my second son
16 Benjamin.

17 SENATOR ASHBURN: Senator Dutton.

18 SENATOR DUTTON: I'll be more than happy to make
19 the motion to approve these two applicants or these two
20 appointees.

21 However, I am going to want to call on you,
22 because I need a couple of clarifications on some things that
23 came up today. I'm not concerned enough about them to hold up
24 my vote or to delay their moving toward, but I do have some
25 things I need to still get clarified. It's not that big of a
26 concern, but I wanted to just let them know.

27 I'll be calling you to spend some more time with
28 me to explain a couple things I don't understand.

1 With that, I'll go ahead and make the motion to
2 move them forward.

3 SENATOR ASHBURN: Motion, Senator Dutton. Call
4 the roll.

5 SECRETARY WEBB: Cedillo.

6 SENATOR CEDILLO: Aye.

7 SECRETARY WEBB: Cedillo Aye. Dutton.

8 SENATOR DUTTON: Aye.

9 SECRETARY WEBB: Dutton Aye. Padilla.

10 SENATOR PADILLA: Aye.

11 SECRETARY WEBB: Padilla Aye. Ashburn.

12 SENATOR ASHBURN: Aye.

13 SECRETARY WEBB: Ashburn Aye. Four to zero.

14 SENATOR ASHBURN: Congratulations.

15 MR. ROSENSTEIN: Thank you. Appreciate it.

16 [Thereupon this portion of the
17 Senate Rules Committee hearing
18 was terminated at approximately
19 3:22 P.M.]

20 --ooOoo--


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

18th IN WITNESS WHEREOF, I have hereunto set my hand this
April day of April, 2008.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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Senate Rules Committee

APR 04 2008

April 3, 2008

Appointments

The Honorable Don Perata
Chairman
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814-4900

Dear Senator Perata,

Thank you for your support of the California Conservation Corps (CCC) and for your consideration of my confirmation as director of the CCC. I deeply appreciate the opportunity to serve as director of an organization that has provided thousands of young Californians, including myself, with the chance to take on new challenges, learn new skills and more fundamentally, find purpose and direction through hard work in service to California. I am honored to follow in the footsteps of former CCC directors, most notably B.T. Collins, under whose leadership I served many years ago.

Following please find my responses to the questions from the Committee.

1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as director of the California Conservation Corps? How will you measure your success?

I have many goals including:

- Fully engaging the CCC in building the pathways to "green jobs." In partnership with key organizations, use the CCC's three decades of experience combining workforce development, environment, education and service to others to design and build the new initiatives that California will need to mitigate and adapt to climate change, build a workforce for the "green economy" and maximize opportunities for educationally and economically disadvantaged young people and communities.
- Expanding corps opportunities, including residential opportunities for young people to work, learn and serve in state and local corps. The epidemic of high school dropouts, critical environmental issues needing a workforce and economic opportunities in the emerging green economy call for more corps opportunities than the 2,400 currently provided by the CCC and local corps. Most of us know

(or once were) a young adult who could use the new skills, challenging experiences, structure and support of the corps to find direction and make the transition into a capable and productive worker, citizen and individual. Corps opportunities are far too rare.

- Further increasing CCC capacity to respond to and help communities recover from disasters, including fires, floods, earthquakes, oil spills and pest infestations.
- Building a network of corps opportunities to better serve the public, including a searchable database of opportunities available throughout the state and local corps to better match the interests and needs of young people with the opportunities provided by CCC field operations and local corps.
- Rebuilding staff morale. The CCC cannot fulfill its mission without dedicated, high performing staff. Fortunately, the CCC mission is deeply compelling and much progress has been made reenergizing and aligning staff effort.
- Developing resources, including funding and partnerships to enhance and expand the program and more effectively move young Californians through the pathways to green jobs and other career, education and personal goals.
- Updating, rebuilding and strengthening corpsmember development, education and training, including prioritizing corpsmember development outcomes, rebuilding partnerships with education, counseling and other providers, re-establishing field-based corpsmember development coordinators, strengthening post-corps transition and scholarship programs, strengthening corpsmember orientation (including individual assessment), establishing energy conservation and other green collar job training programs, strengthening high school diploma preparation and better integrating all education with project work (learning academies).
- Engaging community volunteers by preparing conservation projects for volunteer days much like Habitat for Humanity does for housing projects.
- Refining CCC management systems around the concept of a centrally-supported locally-run network of corps by delegating decision making authority along with clear guidelines, rebuilding the CCC's performance measures system, allocating budgetary and other resources based on results and incentives, strengthening training and technical assistance, strengthening internal communications and management information systems and facilitating development of local plans to ensure CCC responsiveness to local needs and opportunities.
- Measuring success. Prior to leaving the CCC in 1996, I managed development of the CCC's performance measures system. This system continued to develop until the budget cuts of 2001. The system that came to be developed is a complex but good one and includes measures that can be used for continuous improvement and accountability. Implementing this system will require staff and funding as there are currently no CCC staff remaining to administer the system and the CCC's management information systems will need to be updated. Until that time, the CCC has access to basic financial, projects and corpsmember development data.

2. *What effect has the reliance on reimbursements had on the type and location of projects the corps is undertaking? Specifically, has the corps shifted projects to urban areas? If so, how has that changed the fundamental mission of the corps?*

Not including annually variable bond funding and capital outlay, the CCC's operating budget is composed of 59% general fund, 39% project reimbursements (Collins Dugan Fund), 2% other.

The reduction in state general funds and corresponding increase in reimbursements has had two major impacts on CCC project work and mission fulfillment: (1) the closure of centers; and (2) changes in project selection by remaining field operations.

- Center Closures: The general fund budget cuts of 2001-2004 led to the closure of nine CCC residential centers and the elimination of over 1,000 corpsmember positions. These cuts had a relatively greater impact on rural areas. Rural areas highly impacted by cuts included the Klamath Basin and North Coast, Northern Sierra, interior San Diego County and the Southern San Joaquin Valley. Cuts to urban areas impacted the San Francisco Bay Area and, to a lesser extent, the Los Angeles and Inland Empire metropolitan areas.
- Project Selection: The CCC uses three criteria derived directly from our enabling legislation to select projects: (1) environmental importance; (2) public access; and (3) training value for corpsmembers. To meet its reimbursement requirement, the vast majority of projects undertaken by the CCC must be reimbursement projects. As a result, a fourth project selection criteria, availability of reimbursement funding, has essentially been added. The impacts on CCC project selection include: (1) the inability to approve projects that meet the highest standard against the three statutory criteria but lack available reimbursement funding; and (2) the selection of projects for financial reasons that receive a lower rating against the three statutory requirements.

There is no data compiled to quantify the impacts of increased reimbursements. CCC staff report that the greatest compromises were made during and immediately after those years when the CCC general fund budget was being cut. Staff reports that the quality of CCC project work has improved in recent years. The CCC is not able to take on a significant level of project work where the need is highest due to lack of funding.

3. *In the past, the corps has engaged in environmental restoration efforts in rural and wilderness areas. These projects have included restoration of streams and riparian habitat for salmon and steelhead. What level of environmental restoration work is the corps now engaged in? Do you believe that such projects should be increased? If so, how?*

As a percentage of total work hours, the CCC's focus on environmental restoration projects has remained relatively constant varying from 33% in 2000/01 before the big general fund cuts to 31% to date in 2007/08. However, during this period the CCC's corpsmember strength dropped from 2,550 to 1,310 full-time members. Thus, the number of corpsmember work hours has been cut significantly. During the period from 2000/01 to present, the percentage of work hours devoted to environmental restoration has varied from a low of 23% in 2002/03 to a high of 43% in 2005/06. These variations are caused primarily by variations in disaster response efforts which ranged from a high of 21% in 2002/03 to a low of 6% and 7% in 2004/05 and 2005/06 respectively. The biggest and most untimely change in the CCC's project work has been a decrease due to budget cuts in energy conservation work from 262,659 hours (9%) in 2000/01 to 9,264 hours to date this year.

I believe the CCC should dramatically increase its environmental restoration work. This work is needed, the CCC is good at it and the projects can be structured to have a high training value. The collapse of the Delta and Central Valley fish stocks, control of invasive species, need for carbon sequestration and fire hazard reduction, the cumulative effects of ongoing habitat conversion, resource utilization and climate change creates a need for the CCC to help restore and maintain an environment that can sustain our economy, health and quality of life. The CCC offers some of the few opportunities for young Californians to help restore and protect the environment they will inherit.

Two major challenges to a significant increase in CCC environmental work include infrastructure and funding for projects.

- Infrastructure: The nine center closures of 2001-2004 left many environmentally important areas, such as the Klamath River watershed, underserved. While the CCC has continued to serve these areas through occasional "spike" operations, approximately 95% of service to these areas has been lost. A capital outlay program that involves CCC members constructing CCC centers (or renovating existing facilities) to green building standards would have multiple benefits over the short and long term.
- Project Funding: Environmental restoration work can also be increased with additional funding for projects. Proposition 84 funds, for example, will enable the CCC and local corps to take on important environmental work that could not have been completed because of the lack of funds for reimbursements. Another way to increase project funding is to provide the corps extra points when competing for project funding as an acknowledgement of the added benefits to the state of selecting the corps. Augmentation of the CCC budget with bond funds allocated to certified local corps is a proven way to increase environmental work in the 12 mostly urban areas served by these organizations.

4. *Are there other environmental projects you would like to see the corps undertake?*

Yes. I would like to see the CCC take on projects that help California lead the way in mitigating and adapting to climate change - projects such as installing photovoltaic systems, HVAC and other energy conservation retrofits, weatherization of low-income homes, water conservation, building bike paths and other transportation enhancements, biomass utilization, deconstruction and other reuse and recycling. These projects provide CCC members with training for emerging green collar jobs. In many ways, this direction is "*back-to-the-future*" for the CCC given its history of operating energy and solar centers dating back to the 1980's. Fortunately, the CCC still has experienced staff on board. The stress on natural resources caused by climate change will likely also impact the more "traditional" resource conservation project portfolio of the Corps. I would like to see the CCC better utilize its own corpsmembers in completing capital outlay projects, particularly those related to construction of green buildings.

5. *How has the corps had to change to meet the diverse needs of a changing population? Have you had to change recruitment methods to attract youth to the corps?*

The CCC's members are an impressively diverse group racially and ethnically: 36% white, 26% black, 24% Hispanic, 11% other, 2% American Indian and 1% Asian. Reflecting the epidemic of high school dropouts, the CCC population has a greater need for high school diploma and basic academic skills education. The CCC has strengthened its high diploma education program but more work remains to be done. A great majority of CCC members, 86%, are unemployed at time of hire reflecting the growing gap between the workforce needs of California and the skill levels of many educationally and economically disadvantaged young adults. In addition, CCC members are less physically prepared to do the work. The CCC needs to expand upon its existing physical training program.

The CCC has greatly improved its recruitment methods resulting in a waiting list. The CCC is using new, internet-based, multi-media ways to communicate with young people. The CCC has developed a MySpace page (www.myspace.com/caconservationcorps), a YouTube page (www.youtube.com/caconservationcorps) and a blog (www.hardcorpsccc.blogspot.com). Work continues on developing updated collateral materials and an updated "*official*" CCC website. The biggest change to CCC recruitment, however, has been improved management and performance of the CCC's field-based recruiters resulting in more outreach to more people and a better flow of information to recruits resulting in less early attrition. Next steps include improving outreach to emancipating foster youth.

6. Does recruitment complement or compete with recruitment for programs like AmeriCorps? Please explain how.

The CCC provides service opportunities for young women and men that are extremely rare and not duplicated by AmeriCorps.

- a. The CCC mission includes not only the service mission of AmeriCorps but also three other facets: workforce development, education and environment.
 - Workforce Development: The CCC (and local corps) seeks to provide opportunities structured and supported in a way that increases the success of young adults who are (mostly) not directly college-bound and may lack the basic life, work, job specific and academic skills needed to enter the workforce.
 - Education: The majority of AmeriCorps members are college educated, while the majority of CCC members do not have a high school diploma. Providing remedial or continuing education is a requirement of the CCC but not of AmeriCorps.
 - Environment: The percentage of AmeriCorps service in California focused on the environment is small, with most service focused on education and health and other human services.
- b. Service: Many AmeriCorps members are taking a "year off" to serve, while the year of service of many CCC members functions as a transition into the workforce. The term of service of most AmeriCorps members is less than full-time and less than one year. Virtually all CCC member positions are full-time for a 12-month term. Most AmeriCorps programs operate from 9-10 months a year and enroll members during the first few months of the program year. The CCC operates 12 months a year and enrolls members year around.
- c. Projects: Because CCC crews move from project to project, CCC members' experience will be more varied relative to AmeriCorps members who serve in a more single-focused program.
- d. Residential: A very small fraction of AmeriCorps member opportunities are residential, all of the residential opportunities are in Sacramento and these positions are filled through national recruitment. While the CCC was forced to close nine of its residential centers in 2001-2004, it still operates seven residential centers throughout the state.

It is possible, however, to be recruiting for the CCC and for AmeriCorps simultaneously. With one exception (the federally run National Civilian Community Corps), AmeriCorps provides grants to public and non-profit organizations who recruit, train and manage the members. AmeriCorps depends upon, and is run by, direct service organizations like the CCC. CCC members serving in the Watershed Stewards Program on the North Coast, the Backcountry Trails Project in the High Sierra and in other parts of the CCC that receive an AmeriCorps grant are simultaneously AmeriCorps members.

7. *What do you believe is the appropriate balance between the manual side of corpsmembers' work and their education work?*

This is a tough question. Slightly rephrased, it becomes the question that continually challenges CCC program staff. A CCC staff might ask: *"How do we take a young adult with their unique set of strengths and weaknesses and in one year prepare them to take their next step toward fulfilling their work, education and other life goals?"* The CCC program needs to take an effective, balanced approach to achieving at least seven member development outcomes:

- Basic Work Skills, including a strong work ethic, dependability, punctuality and ability to work in diverse teams;
- High School Diploma and basic academic skills education;
- Marketable Job Specific Skills;
- Basic Life Skills, including a driver's license, physical fitness, sobriety and personal financial management;
- Job Seeking Skills, including a post-corps transition plan and post service financial scholarships;
- Goals and Values, including defined goals, self confidence, an ethic of service to others and community and a conservation ethic; and
- Leadership Skills.

I hope that my tenure will be an era during which the CCC is able to better define and refine its program design, develop the partnerships and secure the resources to multiply the number of life transforming testimonials that it creates. From the time I left the CCC in 1996 to my return in 2007, the CCC has clearly struggled in the face of budget cuts to maintain and strengthen its member development, training and education programs.

The characteristics of a strengthened CCC program will include:

- More structured time. Reestablishing and expanding the CCC's residential programs has many benefits, including providing many more hours of structured time to meet multiple corpsmember development outcomes;
- More time for high school diploma and basic academic skills education which may require reducing time allotted to project work for non-residential corpsmembers lacking a high school diploma;
- Intensity. The CCC is most successful when it provides opportunities that are challenging physically, socially, cognitively and emotionally;
- A sequence of opportunities through a network of state corps field operations and local corps. Emphasizing specific aspects of the CCC program at different stages of a corpsmember's term of service would benefit many corpsmembers. Hard, challenging work will continue to be a major emphasis for all corpsmembers who have not demonstrated a minimum of three months of

satisfactory or better work performance (hard work, low pay and miserable conditions);

- A comprehensive program. Members of the CCC would be able to access a full range of services provided by the CCC and by partnering organizations. Many members face multiple barriers to employment;
- Real world opportunities. Corpsmember work experiences are gained within the context of the CCC's completion of conservation projects and disaster response. Few training programs produce the legacy of project work produced by the CCC;
- Defined corpsmember development outcomes. A strong CCC can do a lot but not everything for everybody. The CCC has produced a strategic plan for corpsmember development, education and training that clarifies outcomes and measures. In addition to these partnerships, the CCC needs to strengthen its post-corps transition program;
- Individualized opportunities and support. A strengthened corpsmember assessment; continued frequent, continuous, intense support of a crew supervisor and other caring adults; implementation of a case management approach; and internships for more advanced members are all tools the CCC can use to maximize success for each corpsmember;
- Pathways to Green Jobs. Establishing and strengthening relationships with the community colleges and other education providers, workforce development organizations, labor and employers will be needed to build these pathways. Each organization is best suited to construct specific sections, but not all, of each of the pathways; and
- Portability. As long as the CCC responds to disasters when called and deploys crews on spikes to projects beyond commute distance, it will need a training and education program that is customized and portable. About 30% of corpsmember work time will be on disaster and spike assignment.

8. *How do you monitor the quality of the education that corpsmembers receive?*

A number of means are employed to monitor Corpsmember Education and Training. Current data collection includes:

- High School Diploma Education: Member demographics at time of entry, CAHSEE (exit exam) scores and completions, graduation rates, enrollment numbers and credits earned;
- CCC Core Competency Programs: Conservation awareness program completions, community and the environment competency completions, career development training completions and leadership training completions;
- Other corpsmember development data: Job specific skills training hours, certificated training , post-corps scholarship eligibility and utilization.

The CCC employs site visits to monitor quality and approves all curriculum used in CCC-sponsored offerings. The CCC's main high school education provider is currently undergoing the accreditation process. CCC field operations utilize a "case

management" approach where crew supervisors monitor the participation and performance of their crewmembers in all aspects of the program including education and training.

9. *What is the makeup of your workforce? Will CCC need to address the issue of replacing middle and upper management as a result of retirements over the next several years?*

CCC's upper management will face significant losses in the coming decade. Sixty percent of the CCC's field managers are over age 50 and 50% of the field supervisors below these managers are over age 50. This represents a significant group of managers and supervisors who will be eligible for retirement in the next 5 years. Management at the headquarters location will also face retirement losses as two-thirds of upper managers (SSM II and above) and 57% of supervisors are over 50 years old.

The CCC has employed upward mobility training for entry-level employees. However, the magnitude of recent budget cuts led to seniority-based layoffs centered on entry-level positions (most notably CCC Crew Supervisors). These job cuts have an age gap between older, more experienced Conservationists and their younger, recently hired counterparts. Fifty-five percent of all Conservationist 1's are over age 40.

The CCC's staff workforce is 51% white, 14% Hispanic, 6% Black and 2% Asian. Almost one quarter of the staff identified their ethnic background as "unidentified." Women and men are almost equally represented, with the workforce consisting of 52% men and 48% women. Staff recruitment, including hiring from the ranks of former corpsmembers, will lead to a staff that more closely reflects corpsmember demographics.

10. *What type of succession planning do you have in place to deal with this issue? Do you have staff training or development programs to train the next generation of managers?*

To combat the loss of experienced leaders, the CCC is developing a succession plan that will attempt to increase the number of existing employees who are able to promote, while boosting external recruitment sources. However, salary compaction remains a strong deterrent for rank and file employees to move into field manager and supervisor positions as they receive less compensation than statewide classifications at the manager and supervisor levels (SSM I, II, and III). The CCC is attempting to address this disparity with the Department of Personnel Administration and looks forward to participating in the HR Modernization plan.

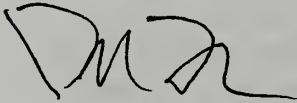
The CCC sponsors annual manager and supervisor training sessions. This year, a session will be devoted to developing and mentoring the next generation of managers.

11. *What training does field staff receive or are required to possess in counseling skills?*

All Conservationist I's (crew supervisors) are required to attend the Initial Entry Training within six months of their hire date. This training includes sessions that address Discipline and Basic Supervision Skills and Alcohol and Other Drug Abuse Prevention Strategies. In addition, second year Conservationists are provided a Certified Leadership Academy that provides training that includes Building a Collaborative Workplace, Coaching, Providing Constructive Feedback, Proactive Listening, Giving Recognition and information on Diversity and Gangs. This training hones the skill of our newer crew supervisors and provides them the tools necessary to be effective mentors and supervisors.

Please contact me anytime at (916) 524-3843 or at david.muraki@ccc.ca.gov should you have any further questions.

Sincerely,



David N. Muraki
Director

Responses to Questions from the Senate Rules Committee

1. **What do you hope to accomplish during your tenure as chief deputy director of DDS? How will you accomplish these goals? How should we measure your success?**

As Chief Deputy Director of the Department of Developmental Services (DDS), I have the following goals and priorities:

Employment: Increasing meaningful employment of persons with developmental disabilities is one of my highest priorities. We are beginning to see the impact of our aging workforce as the gap between employer need and the available workforce widens. Persons with developmental disabilities are part of the solution. This underutilized workforce is a significant asset. Unfortunately, the pathways to employment for individuals with developmental disabilities are often filled with barriers that discourage consumers from pursuing employment opportunities. Improvements in the transition of consumers from school to employment will increase the number of consumers in the workforce. I am currently exploring a program that would provide government internship opportunities for school age consumers as they prepare for transition from school. The participants will develop marketable employment skills and prepare them for public sector careers. In addition, DDS is offering an exam for the Office Occupations Clerk classification which is targeted at hiring individuals with developmental and intellectual disabilities. Participation in the exam is open to the public and the resulting list will be available for use by all state departments.

Services: Our service delivery system, like most others in the State, is facing significant fiscal and budgetary challenges. In light of these challenges, my goal is to maintain necessary and appropriate services for people with developmental disabilities in California. The establishment of best practices associated with both the efficacy and delivery of services is essential to maintaining our developmental services system. I am currently involved in looking at various cost drivers to better understand the dynamic nature of the services provided and the individuals receiving services (see response to Question 4).

Business Partners: Another top priority is maintaining and improving the Department's communication with our business partners. It is essential for DDS to work collaboratively in managing the services delivered in both the community and state-operated facility systems. My ability to effectively monitor and evaluate these systems is dependent on sharing information and perspective with our various partners, including consumers, families, regional centers, providers, advocates, and their related organizations. I will

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ensure ongoing contact with our partners through community visits, meetings, and written and verbal communication.

Housing Options: The increasing numbers of consumers living in the community has amplified the demand for appropriate housing options. DDS is exploring innovative housing solutions, like those created through the Harbor Village and upcoming Shannon's Mountain projects in Costa Mesa, and the Bay Area Housing Project (BAHP) associated with the closure of Agnews Developmental Center (see response to Question 11). These creative solutions not only increase the availability of housing options, they retain the homes in the developmental services system in perpetuity. I will continue to work with our state and local partners to identify and develop additional opportunities to increase the available housing for persons with developmental disabilities.

Fiscal Control: My training as a fiscal and program auditor sets the foundation for achieving my goal to maintain and enhance fiscal control and accountability. As agents of the State, it is essential that we understand and appreciate the responsibilities entrusted to us in carrying out the mission of our respective agencies. This requires our programs to implement appropriate administrative controls while ensuring the delivery of services in the most efficient, effective and fiscally responsible manner. The balance between control, accountability and service delivery is as dynamic as the population we serve and the services we provide. To ensure we remain focused on meeting this objective, DDS will perform assessments on our systems, policies, and procedures as a means to maintaining accountability while meeting our programmatic responsibilities.

Succession Planning: Finally, a significant challenge facing the Department is the number of retirement age employees in executive management (83 percent); management (70 percent); and supervisory (52 percent) positions. The need for increased attention to succession planning is evident. As Chief Deputy Director, I will work with our state partners and our staff to develop a plan to address this issue through enhanced and targeted training and recruitment efforts (see response to Question 7).

My success as Chief Deputy Director should be measured by increasing consumer employment, particularly in government positions; maintaining the service delivery system through difficult fiscal times; continuing collaboration with our business partners; increasing consumer housing opportunities; improving fiscal controls and accountability; and addressing the impacts of our aging workforce.

2. **What primary challenges confront DDS in the operation of the developmental centers as the population residing at the centers**

continues to decline? What actions are you taking to address those challenges?

The Department's primary challenge in the operations of the developmental centers is ensuring adequate skilled staffing to meet the needs of the residents. Budget authority for staffing a developmental centers decreases as the consumer population declines. The natural attrition of licensed staff within a specific center does not always coincide with the population changes for the center. A process for allocating resources between developmental centers is utilized to ensure appropriate staffing at each location. The consolidation of activities and functions amongst the developmental centers is another strategy used to adjust resources as the resident population declines throughout the statewide developmental center system.

Another barrier to achieving appropriate staffing levels at a developmental center is the availability of skilled clinical professionals in the employment market. DDS has a high percentage of staff at retirement age, increasing the demand for new employees in the developmental centers. Recent federal court mandates increased compensation for clinical staff at the state prisons, further limiting the availability of individuals to accept DDS positions. DDS has lost over 100 experienced staff to the California Department of Corrections and Rehabilitation (CDCR) associated with these federal court actions. However, recent developments have brought DDS salaries near or at parity with the CDCR classifications. The Department has also been aggressive in resolving workforce related issues (see responses to Questions 6, 7 and 8).

The second major challenge facing the developmental centers is the aging building and infrastructure. The developmental centers operating today were constructed from 50 to over 100 years ago. The buildings and associated infrastructure continue to age and require significant maintenance and repair. In addition, the fire life safety, electrical and medical gas systems designed during the original construction of the developmental centers are inadequate by current standards. We have been scheduling capital outlay upgrades and renovations where critically necessary to correct fire life safety deficiencies, protect the health and safety of our consumers and employees, and maintain licensing and certification.

The transition of consumers from the developmental center to community living options and the aging of our remaining residents have required program changes to accommodate the change in the developmental center population. The residents who have lived at a developmental center for many years are requiring increasingly complex medical care as they age. With an older population, we are seeing more age-related conditions that

are similar to those found in the general population, including diabetes, cancer, cardiac problems, strokes, hip fractures, arthritis, osteoporosis, Alzheimer's disease, Parkinson's disease, and dementia. We are adapting to this change in population. We are training staff on issues of aging and end-of-life care; providing more restorative nursing, mobility engineering and adaptive equipment; converting residences from intermediate care units to skilled nursing units; and providing specialized programs such as hospice services. The developmental centers are utilizing more contracted medical specialty services, such as oncologists, cardiologists, and gerontologists, to provide appropriate medical care to the residents.

The other significant population change is isolated to the Porterville Developmental Center. The lack of community or other placement options, based upon forensic issues presented by consumers, continues the demand from the courts for placement of individuals in the Secure Treatment Program on the grounds of the Porterville Developmental Center. This facility houses approximately 300 individuals referred by the criminal justice system with mild or moderate disabilities. These residents have significant behavioral issues and have been charged with criminal offenses that require treatment in a secure facility. For those sent to Porterville Developmental Center to restore competency, specialized behavioral and mental health treatment services are often necessary before the consumers can return to the courts and participate in their judicial process.

3. How do you see the need for community services changing or increasing in the future? What steps can DDS and the regional centers take to help ensure an appropriate supply of quality service providers in the community?

There are several factors that influence the types of services and supports provided in the community. For example:

- The growing number of consumers with autism and/or dual diagnoses (e.g. mental health, substance abuse) will increase the demand for specialized behavioral service providers.
- The aging consumer population will require more providers of specialized and complex medical services, including preventive care and services for those with enduring medical needs.
- Aging parents who will no longer be able to care for their children at home; the focus on community integration; and providing services in the least restrictive environment will increase the demand for community housing options.

- Increased expectations of employment from more independent consumers will demand additional day and work programs.

DDS is working closely with the State Council on Developmental Disabilities, regional centers, service providers, consumers, families, and stakeholders to address the changing consumer needs and implementation of services. Examples of current efforts include:

- Innovative efforts associated with the closure of Agnews Developmental Center include a public-private partnership to acquire housing that will be available in perpetuity for persons with developmental disabilities; the development of a new licensed residential model for persons with special healthcare needs; transition of state staff in the developmental center to community service providers; and health and dental services provided through special arrangements with managed care plans (see responses to Questions 11 and 12).
- DDS is working with a wide array of stakeholders to develop best practice guidelines for treating individuals with autism (see responses to Questions 14 and 15).
- DDS, regional centers and the Department of Mental Health have collaborated on the use of Mental Health Rehabilitation Centers as alternative resources for consumers identified as having a dual diagnosis. These centers have proven to be successful in preventing hospitalizations, maintaining community placement, and working with community operators to understand the consumer's needs before crises occur.

4. To what extent has the expenditures growth in the community services program been driven by growth in the number of consumers served, the utilization of services per consumer, and the cost of services? Based on these trends, are there ways that the state can effectively manage the growth in the community services program, while promoting high quality services for all consumers?

A review of paid claims data for the last five years shows that the growth in Purchase of Services (POS) expenditures has exceeded the growth in the number of consumers. As highlighted in the Governor's Proposed Budget for 2008-09, the most significant cost growth has occurred in the following categories:

- Community Care Facilities;
- Day Programs;

- Support Services;
- In-Home Respite; and
- Miscellaneous Services

The growth in POS costs may be attributed to several factors, including, but not limited to:

- New consumers (an average of 7,500 new consumers were added annually over the last ten years), including an increase in children diagnosed with autism spectrum disorder who often require more specialized services.
- Legislative budget augmentations for rate increases and minimum wage adjustments.
- Aging parents who require increasing support to maintain their adult children at home or who can no longer care for their children requiring placement out of the home.
- The increasing longevity of consumers requiring more support services.
- A higher percentage of the total consumer population living in the community, with a growing number of consumers choosing supported living arrangements.
- The movement of consumers from developmental centers.
- The transition of consumers from public school funding to regional center funding as they age.

The Department is currently analyzing expenditure and consumer data to identify other potential trends or cost drivers contributing to system growth, such as changes in the types of services purchased and changes in caseload characteristics that require higher cost services. This analysis is expected to be completed by May 2008.

DDS, in accordance with Section 102.5, Chapter 188, Statutes of 2007, (AB 203), has completed a plan of options for consideration by the Administration and the Legislature to better control regional center costs of providing services. The report includes options that have been considered and/or adopted in prior years; options currently proposed in the Governor's Budget for 2008-09; and additional options for consideration. The plan includes an analysis of the advantages and disadvantages of each option, as required by the statute. A copy of the plan will be provided to the Committee.

5. What outcome measures, including consumer outcome measures, would indicate that DDS is succeeding in its mission of achieving quality services for Californians with developmental disabilities, including persons residing in developmental centers and persons living in the community?

DDS serves over 224,000 consumers residing in the community (221,600) and state-operated developmental centers and community facilities (2,600). Services are delivered to consumers in the community through 21 not-for-profit regional centers under contract with DDS.

DDS collects data and measures the effectiveness of the developmental services delivery system through numerous processes. The following processes represent the most notable means of measuring the Department's success in ensuring quality services are delivered to consumers residing in the community and the state-operated facilities.

Regional Center Measures

- Each regional center is required by statute to enter into a contract with the state that includes annual performance objectives. These objectives are established with input from the community. The performance contracts focus on statewide public policy outcomes and regional center compliance measures. The Department measures statewide outcomes associated with these performance based contracts.
- The Life Quality Assessment (LQA) was implemented in 1996 to assess individual life quality in the areas of choice, relationships, lifestyle, health and well-being, assurance of rights, and satisfaction. The LQA surveys consumers living away from home every three years.
- A study of individuals who have moved from a developmental center into the community is performed annually to assess the quality of community programs and placements for these former residents. Consumer and family satisfaction is also assessed through the study's survey process. All consumers (cumulative) who have moved since the initial study, conducted in 1994, are included in the annual study.
- DDS and the California Department of Health Care Services conduct onsite Medicaid Home and Community-Based Services (HCBS) Waiver monitoring reviews at regional centers every two years. The

reviews assess consumer satisfaction, health and safety and service provision, through interviews with consumers, families, providers, and regional center staff. If issues are identified, follow-up reviews are scheduled to ensure resolution.

- California has implemented an innovative and comprehensive risk management system enabling the State to identify factors that compromise consumers' health and safety. These risks are mitigated through preventive strategies and interventions. This system is utilized statewide and applies to all regional center consumers.
- The Bay Area Quality Management System Pilot is currently implemented in the San Andreas, East Bay and Golden Gate Regional Centers as part of the Agnews Developmental Center Closure Plan. The system measures provider performance, consumer and family outcomes and satisfaction, maintains a central information system, and establishes a Quality Review Commission to review the data and provide input into system improvements.

Developmental Center Measures

Each developmental center maintains a Quality Assurance (QA) Office that monitors the facility's service delivery system, ensures development of continuous improvements and establishes thresholds for quality and performance outcomes. The QA Offices provide operational direction necessary to monitor and evaluate the quality and appropriateness of services provided at the facility, identify clinical and service improvements, and monitor intervention results over time to assess the need for revised improvement strategies. Key quality management activities include:

- Nursing Home Quality Measures - Data are collected on health, physical functioning, mental status, and general well-being and used to assess consumer needs and develop a unique person-centered care plan.
- Customer Satisfaction Surveys - Surveys are designed to assess individual and family satisfaction in the areas of living arrangements, leisure and social activities, paid employment, personal rights, and overall quality of life, in order to ensure a person-centered approach to care and treatment.
- Risk Management Program - Staff in the QA office are dedicated to performing risk evaluations and mitigating risks through data collection and analysis, identification of risk factors, preventive measures, organizational response, and staff education.

- Regulatory Compliance Program - This function within the QA office is designed to ensure that the facility is providing quality services and operating within the guidelines of federal and state regulatory and licensing standards.
- Quality Assessment and Performance Indicator Program - Consumer health indicators are identified and evaluated by nursing staff. The focus is to improve the quality of health care by the use of currently accepted best practice regimens when treating common clinical conditions that affect many consumers.

6. What steps have you taken to examine the current and projected workforce needs at DDS headquarters and the developmental centers? What are the major challenges affecting the department's ability to maintain a skilled workforce?

The Department employs a wide range of professional and support staff in the developmental centers and its headquarters. Developmental centers employ clinical staff, such as physicians, psychiatrists, nurses, and therapists, as well as staff who provide administrative and support services. The DDS headquarters often recruits staff from developmental centers and regional centers for their expertise in meeting program development and monitoring responsibilities. The headquarters operation also includes administrative staff in various fiscal, analytical, information technology and human resource disciplines.

The current labor market is very competitive in both the private and public sectors. The shortage of nurses and other medical professionals makes it difficult to recruit and retain qualified and well trained staff in the developmental centers. Many of the classifications used to provide direct care are also utilized at state-operated hospitals, health facilities and prisons. Recent federal court mandates increasing compensation at the state prisons may limit the Department's ability to maintain staff at the developmental centers. Salary increases were recently approved that should mitigate the impact of the federal mandates (see response to Question 8). In addition, some of these other state facilities are located in close proximity to a developmental center, enabling staff to transition between DDS, the Department of Corrections and Rehabilitation, Veterans' Affairs, and the Department of Mental Health. Employees in general administrative classifications in both the developmental centers and headquarters are marketable throughout the state civil service system and other public entities.

DDS, like other state agencies, is facing a significant number of retirements. Many of the dedicated employees who have worked most of their career serving individuals with developmental disabilities will retire in the next few years. Over 40 percent of current DDS employees are able to retire today with many more approaching retirement age.

To address these issues, DDS has launched a strategic workforce development and succession planning initiative that includes:

- A statistical analysis of our workforce, a skills gap analysis, and a projection of staffing needs for the next 10 years;
- A DDS Workforce Plan with specific strategies and metrics to monitor success, that will be continuously evaluated and revised;
- A targeted recruitment program for staff with the skills and licenses needed as identified in the DDS Workforce Plan;
- A focused effort to identify potential promotional candidates and develop the skills and competencies to ensure readiness to promote into managerial and supervisory vacancies created by retirements;
- Participation in the California Health and Human Services' executive leadership program and management development academy;
- Participation in the Healthcare Recruitment Advisory Council;
- Promotion of a rewarding working environment where staff are aware of their contribution to the Department's mission through orientations and visits to regional centers, developmental centers, and consumer service programs; and
- Efforts to train and employ more consumers into our workforce (see response to question 7).

- 7. What percentage of headquarters staff and of developmental center staff, including management staff, are at or near the age of retirement? Please describe any specific plans to recruit and train employees to fill these positions when existing staff retire.**

As mentioned earlier, over 40 percent of DDS employees are currently able to retire. The following provides the distribution of these individuals amongst our executive, manager, supervisor and rank and file positions¹:

- CEAs 83%
- Managers 70%
- Supervisors 52%
- Rank and File 38%

Succession planning remains a top priority for DDS and the California Health and Human Services Agency. The development of existing staff to prepare them for management and supervisory positions is a critical component of the Department's efforts, including:

- **The Employee Enhancement and Leadership Program.** This program was developed in partnership with University of California, Davis to build leadership skills in our journey level professional staff to enable them to promote to positions of greater responsibility. This program has been offered twice over the course of the past three years.
- **The DDS Super Leader Academy.** Developed in partnership with the California State University, Sacramento, Office of Continuous Education, this program was offered this past year to experienced DDS supervisors to further develop their management skills.
- **California Health and Human Services Agency Leadership Development Academy.** DDS currently has staff participating in this program designed to prepare senior managers and lower-level CEAs for greater management responsibilities.
- **Executive Leadership Program.** I am a former participant of this program developed by the Department of Personnel Administration, the State and Consumer Services Agency, and the State Chief Information Officer. DDS currently participates in this program that provides managers with specialized leadership development and encourages participants to develop professional relationships with other state executives. The Director of DDS is a member of the Advisory Board for this new program.
- **California Health and Human Services Agency Annual Convocation.** Beginning in 2007, this annual event sponsored by

¹ Percentage of DDS employees eligible to retire is based on 7,869 total employees and those age 50 and over in Tier I retirement program and those age 55 and over in Tier II retirement program.

the California Health and Human Services Agency (Agency) provides an opportunity for senior managers from all departments within the Agency to network and establish relationships for future collaboration. DDS senior managers have participated in this event and will continue to participate in the future.

As the current workforce of licensed Psychiatric Technicians promotes and/or retires, DDS is finding it increasingly difficult to hire and retain qualified staff to fill these positions at the developmental centers and community facilities. To ensure the availability of sufficient licensed Psychiatric Technicians, DDS sponsors unlicensed facility staff to become licensed Psychiatric Technicians through a 20/20 Program. This staff development program allows full-time employees to work 20 hours at the developmental center and attend professional training classes for the remaining 20 hours. Consideration for the program requires applicants to have a history of good attendance and work performance. The developmental centers are currently sponsoring 56 employees and eight instructors in the program.

In an effort to retain experienced staff, DDS is offering priority, under a Departmental Restriction of Appointment (DROA) program, to employees at the Agnews Developmental Center scheduled to close later this year and employees impacted by recent budget reductions. This program encourages well-trained and dedicated employees to continue serving individuals with developmental disabilities at other DDS sites.

Recruitment of new employees is critical in filling vacancies as existing employees retire, promote or transfer out of DDS positions. DDS is collaborating with other departments to offer open internet-based civil service exams that provide for the best possible candidate pool. This is being done for entry level, analytical, as well as more experienced staff. For example, the Staff Services Manager I exam was given in the Fall of 2007 on an open basis attracting over 4,000 applicants with a resulting list of over 2,200 successful candidates of which 13 percent are non-state employees. This coordinated effort by California Health and Human Services Agency (CHHSA) and its departments was a first for California State Government and was applauded by the State Personnel Board.

The Department also engages in the following recruitment efforts to ensure the availability of qualified candidates for DDS positions:

- DDS participates on the Healthcare Recruitment Advisory Council with CHHSA, other CHHSA departments, California Department of Veterans' Affairs (CDVA), California Department of Corrections and Rehabilitation (CDCR), Department of Finance and the Department of Personnel Administration. The Healthcare Recruitment Advisory

Council is responsible to direct and oversee the \$1.1 million healthcare recruitment contract as a multi-departmental effort to recruit more healthcare workers into state employment.

- DDS in collaboration with CHHSA, State Personnel Board (SPB), Department of Mental Health (DMH), and CDVA is recruiting for healthcare professionals via a direct link on the SPB website.
- The Department utilizes the continuous filing process for conducting civil service exams for hard-to-fill classifications.
- The Department, in conjunction with the CHHSA and its other departments recently obtained permission to use the Registered Nurse exam given by CDCR as an on-line exam.
- Recruitment and retention pay is used by the developmental centers to fill healthcare positions.
- The Department is increasing recruitment of consumers for state positions. DDS is currently offering an open exam for the Office Occupations Clerk classification which is targeted at hiring individuals with developmental and intellectual disabilities.
- Job shadowing and mentoring is offered by the Department in an effort to encourage careers with DDS.
- Fellowship and internship programs with local universities are pursued, primarily for recruiting health professionals. DDS currently sponsors 28 students.
- DDS attends job fairs and professional conferences, as well as advertising in college and professional publications.

8. Please describe how the federal court mandates to increase compensation for clinical staff at the state prisons could impact staffing at the developmental centers. Please indicate the number of staff that have left developmental centers for employment at state prisons.

The recruitment and retention efforts described above continue to assist the Department to address the impact from federal court mandates to increase compensation for clinical staff at CDCR, referred to as Coleman (psychiatric classes), Plata (physician, nurse and other healthcare professional classes), and Perez (dentist classes). DDS has lost upwards of 70 employees in Coleman classifications and 32 employees in Plata classifications to CDCR,

since January 2007. This represents the loss of six percent of our clinical staff due to these two federal court mandates. DDS has not yet experienced an impact from the Perez action.

The salaries of Coleman, Plata and Perez related classifications at DDS, DMH and CDVA were recently increased to bring them close to parity with CDCR. The Coleman related increases were addressed by AB 754 and AB 756, and approved by the Governor in October 2007. Most of the Plata and Perez related increases are included in AB 3043 which was introduced February 25, 2008, and currently in the Public Employees, Retirement and Social Security Committee. Salary increases for classes such as Dentist (Perez) and Physicians (Plata) did not require new legislation as they were approved in the 2007-08 Budget Act.

Although it is too early to know the full impact of the recent Coleman, Plata, and Perez related salary increases for DDS classifications, we are hopeful that they will improve our recruitment and retention of licensed healthcare professionals.

DDS will continue to implement aggressive strategies described above and the collaborative efforts with other CHHSA departments, CDVA, DOF and DPA to address the staffing needs of the developmental centers.

9. Please briefly describe the mechanisms through which DDS monitors the performance of regional centers. What steps are you taking to ensure that DDS has the appropriate performance measurement and accountability systems in place for proper oversight of the regional center system?

DDS contracts with 21 regional centers for the delivery of developmental services in California. The boards of directors of these nonprofit organizations are held responsible by the State for compliance with contract terms, the Lanterman Developmental Disabilities Services Act, and all applicable statutes and regulations. Oversight of the regional centers by DDS is an essential component of the service delivery system for consumers living in the community.

Fiscal and programmatic oversight of the regional centers is achieved through the following Department activities:

- Bi-annual audits of each regional center.
- Review annual independent audits, required by the contract.
- Onsite reviews at the regional centers to ensure contract compliance and address any specific issues.

- Attendance at quarterly regional center board meetings.
- Monitor regional center Purchase of Service (POS) expenditure and consumer data reported through various electronic systems.
- Review regional center monthly expenditure projections, as required by contract provisions.
- Review all special incident reports from regional centers. These reports include all consumer deaths, serious injuries, suspected abuse or neglect, and unplanned hospitalization.
- Use of special contract provisions or probation to ensure contract compliance and service delivery by the regional centers. If noncompliance continues, contract termination can be pursued.

DDS will continue to evaluate these monitoring tools for their ongoing effectiveness in ensuring the Department meets its oversight responsibilities for the community program.

10. How will you ensure that regional centers have meaningful participation in statewide projects that are dependent upon successful implementation by the regional centers?

Coordination and communication with the regional centers is essential to the delivery of services in California. This is effectively achieved through various means, including: visits to the regional centers, attendance at local meetings and events, maintaining the cooperative relationship with the Association of Regional Center Agencies (ARCA), and ensuring representation by regional centers and ARCA on committees and workgroups that address statewide policies and programs.

I have been able to visit a few regional centers and attend locally sponsored events, since my appointment. I am committed to visiting the remaining regional centers by the end of 2008. These visits are essential to maintaining the lines of communications that serve DDS and regional centers in meeting our common mission.

The Department enjoys a cooperative relationship with ARCA. The Department attends and reports at all of the ARCA Board of Directors meetings and many subcommittee meetings. The directorates of both organizations meet regularly to discuss program and fiscal issues. We also partner with ARCA to evaluate statewide trends, provide training, and develop program strategies and methodologies.

- 11. Please provide a status report on community-housing development under BAHP, including the number of properties already purchased, developed, and occupied by each regional center area and the estimated time frame for completion of the housing development.**

The closure of Agnews Developmental Center relies upon the development of community housing under the Bay Area Housing Plan (BAHP). The plan includes the purchase, remodel, and construction of 61 homes that will utilize new and innovative housing and program designs. Agnews is scheduled to close June 30, 2008. However, delays in permitting and construction of the homes will make this date difficult to achieve. Between July 2004 and February 2008, 170 consumers have moved into the community, including 20 who are residing in the new family teaching homes and 21 in specialized residential programs.

The acquisition of properties under the BAHP is on target, with all 61 homes purchased. Construction on these properties is about two months behind schedule because of the complexities of the designs, the permitting processes (19 separate jurisdictions and processes), and issues related to onsite construction management. The developer has implemented measures to mitigate these delays as much as possible. A chart is enclosed describing each property acquired.

- 12. What specific actions are DDS and the Bay Area regional centers taking to increase the supply and capacity of private service providers in the Bay Area?**

The health and safety of consumers transitioning from Agnews to the community is paramount. Therefore, it is essential that the provider infrastructure exists to meet the needs of Agnews consumers before they transition into the community. Providers have been selected by the regional centers to operate each of the homes in their area. The providers continue to hire administrators, direct care staff and other support staff to ensure readiness when the homes are available for occupancy. The state staff in the community program, authorized by AB 1378, Chapter 538, Statutes of 2005, allows providers to utilize experienced Agnews staff to fill their positions. The program also provides job opportunities for these skilled staff, many of whom have dedicated their careers to serving the consumers residing in developmental centers.

A number of training sessions have been provided to Agnews staff to present options that allow them to continue serving consumers in the community, including information on becoming licensed care providers,

operating Adult Family Homes and Family Teaching Homes, and participating in the State Staff program. Other training offered to Agnews staff include:

- Sessions designed to prepare Agnews employees to be competitive when interviewing for regional center positions. These sessions included an overview of the entire service delivery system, the role of regional centers, DDS, the two main licensing entities, and various consumer advocate organizations.
- Sessions held in conjunction with the Community Care Licensing Administrator Certification Program to familiarize Agnews staff with the process for becoming certified administrators.

DDS continues to assure the provision of comprehensive health, behavioral and dental care services for consumers transitioning from Agnews Developmental Center to the community. DDS, the Bay Area regional centers, and the Department of Health Care Services (DHCS) have created a framework for the development and delivery of health services to consumers who are transitioning to the community. This framework is based on a comprehensive health transition plan for each consumer, to ensure access to appropriate health care and services in the community.

The regional centers, DDS, and DHCS have established a partnership with the designated managed care health plans (Santa Clara Family Health Plan, Alameda Alliance for Health and Health Plan of San Mateo) to arrange for medical and specialized health care services for Agnews consumers who elect to enroll in these plans. The health plans will provide access to an array of medical service providers, including primary care and specialty physicians, optometry and ophthalmology services, medications, support services such as occupational and physical therapies, and medical equipment and supplies including adaptive equipment. The plans will also provide comprehensive medical care management. A registered nurse will be assigned to each consumer to coordinate individualized health services and assure that the consumer receives specialty services identified as medically necessary by the primary care physician. Similarly, the regional centers are developing the necessary health care providers for individuals not enrolled in the health plans.

13. How is the department planning to meet the anticipated growing demand for residential, employment, and other services for persons with autism as that population ages?

The number of DDS consumers diagnosed with autism continues to increase. The total number of persons identified with autism served by

regional centers and developmental centers increased from 20,377 in 2002 to 36,952 in December 2007.

In the next five years, over 4,000 teenagers with autism, aged 15 to 19, will be joining the over 6,000 persons presently in the 20 or older age group, bringing that total to over 10,000 adults. As these youth age out of the school system, there will be significant demand placed on the regional centers to provide residential, employment and treatment services. DDS, working closely with our stakeholder community and other experts, is currently developing best practice guidelines for serving individuals with autism. Through the Autism Spectrum Disorders (ASD) Initiative, we will be disseminating guidelines for effective interventions that will be designed to assist families and clinicians in identifying interventions that avoid, whenever possible, moving children out of their family home.

Through DDS's ASD Initiative, we are striving to create a more extensive network throughout California, to share information on service needs and effective interventions, and develop innovative resources for this growing segment of the population. DDS is also encouraging the development and utilization of alternative housing, such as Family Home Agencies and Supported Living Services, for consumers with ASD, which allows consumers to have maximum control over their environments.

DDS is encouraging regional centers to develop specialized integrated day and work services that meet the needs of individuals with autism, especially those graduating from the school system. DDS is working closely with the State Council on Developmental Disabilities to implement SB 1270 geared toward expanding employment and day program options for the changing consumer population. DDS attended meetings and provided input to the Legislative Blue Ribbon Commission. In the fall of 2007, the Legislative Blue Ribbon Commission released a report of recommendations that addressed the need for enhanced services for adults with ASD.

- 14. What steps could DDS take to increase collaboration with other state departments that have a role in serving persons with autism (i.e., the departments of Education, Health Care Services, Public Health, Managed Health Care, and Social Services)? What steps could DDS take to ensure greater collaboration at the local level between regional centers, schools, health care providers, family resource centers, and others that serve persons with autism?**

DDS maintains a high priority on increased collaboration, at the state and local level, among providers serving persons with autism.

The first of three sets of guidelines proposed by the DDS ASD Initiative, *Autistic Spectrum Disorders: Best Practice Guidelines for Screening, Diagnosis and Assessment*, was published in September 2002. DDS has initiated training on these guidelines. The next training on the guidelines will be held in Sacramento in the Fall of 2008.

DDS worked with various state departments in developing guidelines for treatment interventions for persons diagnosed with an ASD, including representatives from managed care, universities, numerous advocacy organizations, and the Departments of Education and Mental Health. This document, *ASD Guidelines for Effective Interventions*, is expected to be released in the winter of 2008-09.

In March 2008, DDS published *Autistic Spectrum Disorders: Best Practices in Inter-Organizational Collaboration*. This is a how-to manual for organizations working to integrate services for persons with ASD and their families.

DDS is collaborating with the Department of Education regarding services to children with ASD and in their development of longitudinal data methods to track the progress of these individuals over time. In addition, DDS is coordinating with the education community on implementation of AB 2513 (Chapter 783, Statutes of 2006) related to best practices in education for serving students with autism.

DDS is pursuing several innovative approaches to improve health care services for all persons with developmental disabilities, including those diagnosed with autism. We are sponsoring scholarships and fellowships; providing specialized training for practicing medical professionals; and have developed a specialized dental program, in cooperation with the University of the Pacific, that includes in-home screenings for needed dental care.

DDS continues to collaborate with UC Medical Schools to provide training and education opportunities for healthcare providers, regional center staff, and other health and social service professionals. These opportunities are designed to improve the quality of services provided, and also to recruit and support new providers who may have been reluctant to serve this population.

The 2006-07 budget added one ASD Program Coordinator and one ASD Clinical Specialist at each of the 21 regional centers.

- The ASD Program Coordinator ensures coordination, communication, training and technical assistance with external stakeholders and agencies. The ASD Program Coordinator also works with parents, consumers, and provider groups to ensure

current, evidence-based approaches to ASD are understood; and provide outreach that is culturally and age appropriate. The ASD Program Coordinator plays a critical liaison role with regional center providers, the local ASD Resource Center, schools, and other education stakeholders, city and county social service agencies, and advocacy groups.

- The ASD Clinical Specialist assists case managers with clinical referrals, advises intake units on best practice guidelines for the screening, diagnosis, and assessment of individuals with ASD, and provides technical assistance to local clinicians and service providers regarding intervention practices.

15. Does the department plan to address any of the issues raised in the Legislative Blue Ribbon Commission's report? If so, how?

Consistent with the findings of the Commission, DDS will continue its efforts to partner with numerous stakeholders to promote evidence-based guidelines on assessment, diagnosis, interventions, and interagency collaboration for ASD. DDS has proposed to:

- Complete the multi-year project: *ASD Guidelines for Effective Interventions* to provide proven, evidence-based models for intervention to programs throughout the State.
- Update the previously published *Autistic Spectrum Disorders: Best Practice Guidelines for Screening, Diagnosis and Assessment*.
- Provide guidance and technical assistance as requested to local entities for the development of interagency Memoranda of Understanding so that families can benefit from clearly identified roles and responsibilities of both schools and regional centers.
- Provide ongoing support to families by way of the ASD Resources Project, which is a family focused program that provides materials and direct family support through the Family Resource Centers.
- Use proven models of collaboration to actively work with partners to help remediate many of the problems identified in the Commission's report. (*Best Practices in Inter-Organizational Collaboration*)

No.	& NPO	Address	City, State, Zip	Property Type	Capacity	Purchase Price/Cost	Construction Cost	Renovation Cost	Lot Size	Square Footage	Escrow
Regional Center: SARC											
1	SARC-BAHC	10516 N Foothill Blvd.	Cupertino, CA 95014	FTH	3	\$1,240,000	N/A	\$196,000	8,760	2,477	5/18/2007
2	SARC-BAHC	10526 N Foothill Blvd.	Cupertino, CA 95014	FTH	3	\$1,240,000	N/A	\$196,000	8,460	2,477	5/18/2007
3	SARC-BAHC	10506 N Foothill Blvd.	Cupertino, CA 95014	FTH	3	\$1,240,000	N/A	\$192,000	8,800	2,471	5/18/2007
4	SARC-BAHC	10536 N Foothill Blvd.	Cupertino, CA 95014	FTH	3	\$1,240,000	N/A	\$177,000	10,800	2,477	5/18/2007
5	SARC-BAHC	506-508 Northlake Dr.	San Jose, CA 95117	FTH	3	\$820,000	N/A	\$678,843	7,371	2,239	7/24/2006
10	SARC-BAHC	1527-1529 Eden Ave.	San Jose, CA 95117	FTH	3	\$875,000	N/A	\$623,843	6,098	2,198	6/26/2006
11	SARC-BAHC	629-631 Vasona Ave.	Los Gatos, CA 95032	FTH	3	\$860,000	N/A	\$638,843	6,970	2,397	7/31/2006
12	SARC-BAHC	637-639 Vasona Ave.	Los Gatos, CA 95032	FTH	3	\$860,000	N/A	\$638,843	6,970	2,397	7/31/2006
13	SARC-BAHC	625-627 Vasona Ave.	Los Gatos, CA 95032	FTH	3	\$860,000	N/A	\$638,843	6,970	2,397	7/31/2006
15	SARC-BAHC	1320 Baywood Ave	San Jose, CA 95128	962-5R	5	\$925,000	N/A	\$760,335	8,275	2,373	7/6/2006
16	SARC-BAHC	649 Empey Way	San Jose, CA 95128	962-5N	5	\$790,000	\$885,016	N/A	8,276	1728 (Footnote 2)	2/15/2007
20	SARC-BAHC	4865 Wellington Park Dr.	San Jose, CA 95136	SRH-3	3	\$762,000	N/A	\$523,792	7,405	2,084	10/2/2006
22	SARC-BAHC	14329 Mulberry Dr.	Los Gatos, CA 95032	962-5N	5	\$749,950	\$925,066	N/A	10,890	720 (Footnote 2)	10/9/2006
23	SARC-BAHC	1446 Flora Ave	San Jose, CA 95130	962-5N	5	\$785,000	\$890,016	N/A	10,019	1653 (Footnote 2)	10/21/2006
24	SARC-BAHC	205 Ginger Way	Morgan Hill, CA 95037	SRH-4	4	\$939,000	N/A	\$371,842	7,000	2,450	6/20/2007
44	SARC-BAHC	19175 Taylor Avenue	Morgan Hill, CA 95037	962-5	5	\$949,000	N/A	\$649,000	7,000	2,500	7/5/2007
27	SARC-BAHC	15134 Chameran Ave.	San Jose, CA 95124	SRH-3	3	\$829,900	N/A	\$455,892	7,840	1,790	6/21/2007
28	SARC-BAHC	1502 Constanza Way	San Jose, CA 95129	SRH-3	3	\$870,000	N/A	\$415,792	6,970	1,780	2/15/2007
29	SARC-BAHC	2917 Penitencia Creek Rd	San Jose, CA 95132	SRH-3	3	\$792,500	N/A	\$493,292	5,663	2,084	5/25/2007
30	SARC-BAHC	5486 Yale Dr.	San Jose, CA 95118	SRH-3	3	\$798,000	N/A	\$487,792	6,098	1,900	12/15/2006
31	SARC-BAHC	826 Calero	San Jose, CA 95123	962-5R	5	\$985,000	N/A	\$718,952	8,200	2,500	4/30/2007
33	SARC-BAHC	15470 La Alameda Dr.	Morgan Hill, CA 95037	962-5R	5	\$987,500	N/A	\$816,452	13,503	2,912	1/9/2007
45	SARC-BAHC	1750 Westmont	Campbell, CA 95008	962-5	5	\$770,000	\$939,615	N/A	14,810	3100 (Footnote 2)	6/13/2007
48	SARC-BAHC	275 W Dunne Ave	Morgan Hill, CA 95037	SRH-4	4	\$855,000	N/A	\$455,842	21,344	2,262	4/25/2007
52	SARC-BAHC	441 N. Milton Ave	Campbell, CA 95008	962-5	5	\$718,000	\$991,615	N/A	9,583	n/a (Footnote 2)	6/15/2007
55	SARC-BAHC	173 Westridge Dr.	Santa Clara, CA 95050	962-5	5	\$760,000	\$949,615	N/A	9,148	1546 (Footnote 2)	6/29/2007
57	SARC-BAHC	771 Jill Ave.	Santa Clara, CA 95050	962-5	5	\$653,000	\$1,056,615	N/A	8,712	856 (Footnote 2)	6/29/2007
58	SARC-BAHC	1173 Salemo Dr	Campbell, CA 95008	962-5	5	\$745,000	\$964,615	N/A	8,712	2400 (Footnote 2)	6/29/2007
59	SARC-BAHC	2334 Oak Flat Rd	San Jose, CA 95131	SRH-3	3	\$770,000	N/A	\$515,792	6,098	1,994	10/25/2006
32	SARC-BAHC	960 Elm Street	San Jose, CA 95125	962-5N	5	\$793,000	\$916,615	N/A	10,454	2131 (Footnote 2)	7/2/2007
49	SARC-BAHC	1616 Corte de Medea	San Jose, CA 95124	SRH-4	4	\$841,000	N/A	\$469,842	6,098	1,780	7/25/2007
53	SARC-BAHC	373 S. Henry Drive	San Jose, CA 95117	962-5	5	\$774,000	\$935,615	N/A	11,761	1,700 (Footnote 2)	9/24/2007
61	SARC-BAHC	663-665 Vasona Court	San Jose, CA 95032	FTM	3	\$875,000.00	N/A	\$623,843	3,484	2,416	10/2/2007
Regional Center: RCEB											
6	RCEB - HCEB	1908-Otis Dr.	Alameda, CA 94501	SRH-3	3	\$738,000	N/A	\$424,623	5,096	1,545	3/30/2007
9	RCEB - HCEB	32724 Fairfield St.	Union City, CA 94587	SRH-3	3	\$750,000	N/A	\$269,580	7,400	1,700	12/4/2006
14	RCEB - HCEB	2654 Chablis Way	Livermore, CA 94550	962-5R	5	\$870,000	N/A	\$687,322	11,800	2,439	9/15/2006
17	RCEB - HCEB	5242 Bristol Pl.	Newark, CA 94560	SRH-3	3	\$729,000	N/A	\$433,223	6,500	1,610	4/25/2007
24	RCEB - HCEB	1169 Sand Beach Pl.	Alameda, CA 94501	SRH-3	3	\$719,000	N/A	\$300,580	8,056	1,543	11/17/2006
38	RCEB - HCEB	2508 Regent Rd	Livermore, CA 94550	962-5R	5	\$835,000	N/A	\$722,322	11,205	2,300	9/25/2006
39	RCEB - HCEB	1447 Stonehedge Dr.	Pleasant Hill, CA 94523	SRH-3	3	\$716,900	N/A	\$445,323	9,416	1,512	5/15/2007
41	RCEB - HCEB	21763 Shady Spring Rd	Castro Valley, CA 94546	SRH-3	3	\$670,000	N/A	\$349,580	6,890	1,771	10/3/2006
43	RCEB - HCEB	24615 Palencia Ct.	Hayward, CA 94541	SRH-3	3	\$705,000	N/A	\$314,580	6,000	2,051	11/22/2006
46	RCEB - HCEB	32744 Olympiad Ct.	Union City, CA 94587	962-5R	5	\$880,000	N/A	\$677,322	6,559	2,086	10/23/2006
50	RCEB - HCEB	5508 Jasmine Ct.	Castro Valley, CA 94552	SRH-4	4	\$805,000	N/A	\$388,134	10,908	1,908	7/26/2006
47	RCEB - HCEB	8101 Meadowlark Court	Newark, CA 94560	962-5R	5	\$778,500	N/A	\$796,803	10,067	2,082	7/10/2007
42	RCEB - HCEB	5772 Dichondra Place	Newark, CA 94560	SRH-3	3	\$680,000	N/A	\$339,580	7,500	1,734	8/30/2007
54	RCEB - HCEB	35849 Carnation Way	Fremont, CA 94536	962-4	4	\$929,950	N/A	\$642,950	7,000	2,161	9/28/2007
56	RCEB - HCEB	36743 Montecito,	Fremont, CA 94536	962-5R	5	\$950,000	N/A	\$604,900	10,000	2,052	10/1/2007
Regional Center: GGRC											
7	GGRC-WBHC	2271 Prague St.	San Mateo, CA 94401	SRH-3	3	\$771,000	N/A	\$452,473	5,000	1,380	7/10/2006
8	GGRC-WBHC	11720 Pierce St.	San Mateo, CA 94403	SRH-3	3	\$775,000	N/A	\$448,473	5,000	1,620	8/18/2006
18	GGRC-WBHC	17121 Sunnyside Dr.	S. San Francisco, CA 94080	SRH-3	3	\$849,000	N/A	\$374,473	4,550	2,670	10/12/2006
19	GGRC-WBHC	680 Edna Way	San Mateo, CA 94402	962-4R	4	\$788,888	N/A	\$821,865	5,400	1,560	11/6/2006
21	GGRC-WBHC	2830 Madima Dr.	San Bruno, CA 94066	962-4R	4	\$1,250,000	N/A	\$378,795	5,000	1,380	3/30/2007
25	GGRC-WBHC	633 Vanessa Dr.	San Mateo, CA 94402	SRH-3	3	\$750,000	N/A	\$473,473	5,053	1,670	10/11/2006
35	GGRC-WBHC	740 Palm Ave.	S. San Francisco, CA 94080	SRH-3	3	\$850,000	N/A	\$373,473	5,500	1,550	11/9/2006
36	GGRC-WBHC	3602 Martin Dr.	San Mateo, CA 94403	SRH-3	3	\$880,000	N/A	\$392,880	5,000	1,580	4/17/2007
37	GGRC-WBHC	1219 Sabina Ct	Redwood City, CA 94061	SRH-3	3	\$899,000	N/A	\$373,880	7,700	1,800	6/14/2007
34	GGRC-WBHC	1415 Gordon	Redwood City, CA 94061	962-5N	5	\$610,000	\$978,610	N/A	9,856	n/a (Footnote 2)	7/10/2007
60	GGRC-WBHC	460 Bodega	Foster City, CA 94404	SRH-3	3	\$771,000	N/A	\$501,880	5,663	1,630	8/23/2007
51	GGRC-WBHC	445 Sequoia	Redwood City, CA 94061	SRH-3	3	\$970,000	N/A	\$302,880	5,628	1,800	8/23/2007
40	GGRC-WBHC	2990 St Cloud	San Bruno, CA 94066	962-4R	4	TBD	TBD	TBD	6,936	1,440	3/9/2008
Total Properties 61											

Footnotes

(1) Represents Total A&C Costs Less Acquisition

(2) Existing structures are to be replaced by new structures including new construction or prefabrication homes built to "962" specification

(3) SARC #26, SARC #44, GGRC #41 and GGRC#40 followed atypical acquisition and construction process as they closed escrow after construction/renovation were completed.

BHP_AcquiredProperties(071906).xls

Senate Confirmation Hearing
Karen Johnson, Chief Deputy Director of Policy and Program Support
California Department of Health Care Services
March 12, 2008

Question #1

Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as chief deputy director of DHCS? How will you measure your success?

As the Chief Deputy Director of Policy and Program Support of the California Department of Health Care Services, my primary responsibility is to deliver responsive and efficient support that contributes to the overall success of our health care programs and goals. My role also includes oversight of the critically important Audits and Investigations Division. I work to lead and support ongoing efforts to create a more open and customer-centered organization and to ensure the integrity of the Department's programs. I do so by diligently ensuring that staff is informed, empowered, and fully understands not only their roles and responsibilities, but the mission of the DHCS.

I bring to this position a steadfast commitment to demonstrate and impart courage, discipline and vision – all while effectively juggling a myriad of professional details required by this role. My leadership experience here and in other State organizations has shown that this approach delivers results. My focus is guided by recognition of the need to instill public confidence and trust in government. Recognizing emerging trends in the development of technology, the aging of our workforce, and dramatic changes in the private sector, I am driven to encourage innovation and the rethinking of current approaches to operations. The effectiveness of DHCS into the future depends upon its ability to adapt.

The following represent my goals and objectives. Below each of the listed objectives, I provide examples of efforts to achieve these goals. The examples are not all inclusive, but rather illustrative of my efforts.

- ***Enhancing open communication and strengthening partnerships.*** Strong relationships and information sharing within DHCS, with other State agencies, and with our stakeholders is critical to the success of our operations. I believe that face-to-face communication and regular meetings build trust and rapport, leading to more effective cooperation. I instructed staff to institute regular meetings with key business partners such as the Department of Mental Health, the Department of Alcohol and Drug Programs and the Department of General Services. These meetings provide opportunities to strategize, conceptualize and plan approaches that avoid, or at least minimize, potential problems.

- **Leveraging technology to create efficiency and effectiveness to enhance operations.** *I had the unique opportunity to begin my job when the former Department of Health Services was reorganizing into two distinct departments. We took advantage of this occurrence as an opportunity to revisit many aspects of our business. I have assumed leadership roles on several major areas targeted for improvement, including our website. My goal is to develop a more user-friendly site that enhances and advances the operations of the Department. Since our Department provides services that touch the lives of more than 8 million Californians, it is imperative that we use technology tools, including the website, to become a more efficient public servant. When we complete this project, I envision a site that allows seamless communication with clients, partners, beneficiaries and other interested parties. Additionally, I oversee the Department's ongoing Medicaid Information Technology Architecture (MITA) assessment. This assessment, which is mandated by the Federal Centers for Medicare and Medicaid, is a tremendous opportunity to evaluate the State's big picture needs and our plans for the Medi-Cal program. The MITA assessment will provide valuable information to improve the functions and administration of Medi-Cal.*
- **Building a strong and responsive workforce.** *One of my most important goals is to develop and implement a proactive workforce plan that will effectively address the looming workforce challenge facing the State. Estimates show that over 35% of our workforce will become eligible to retire during the next five years. We must establish an effective recruitment and retention strategy to ensure that the State and the Department will be able to maintain a high level of service to Californians. I initiated these efforts with an assessment of the barriers to recruiting and hiring faced by this department. Additionally, working with all of the HHSA departments, I helped sponsor the first open testing for the State Services Manager I classification in three decades, which produced a large pool of new applicants. I plan to duplicate this effort for other targeted classes. Furthermore, I will work to ensure that DHCS continues to lead in hiring a workforce that reflects the racially and ethnically diverse society we serve.*
- **Ensuring the fiscal integrity of programs.** *As the Department's executive charged with oversight of the Audits and Investigations Division (A&I), I am working to aggressively combat any illegal or wasteful spending of public funds. A&I, the unit responsible for fiscal integrity for many aspects of the Medi-Cal program, receives my full attention as we work to ensure that public dollars spent on health care get the most value and that Medi-Cal providers are treated fairly. We review expenditures to providers such as acute care hospitals, long-term*

care facilities, outpatient clinics, physicians, laboratories, pharmacies, and durable equipment providers. I will enhance oversight of annual audits conducted regarding the costs claimed for reimbursement by such providers, making certain they are properly related to the care provided Medi-Cal beneficiaries. We will step up actions to avoid and reduce fraud and abuse of health care programs and ensure that reimbursements are in accordance with applicable rules and regulations. In cases where overpayments are identified, we initiate strong efforts to recover misused funds. Perhaps most importantly, in cases where claims paid to physicians, laboratories, and durable medical equipment providers are found to be questionable or abusive, we impose utilization controls to correct abuse and overpayments until such time as DHCS determines that the provider has taken appropriate corrective action. In conducting this work, I do my utmost to ensure that providers are treated fairly.

- ***Implementing best practices and exploring new data mining techniques and processes for monitoring fraud and abuse.*** DHCS is an active member and leader of a State Workgroup established to identify, share and implement strong anti-fraud procedures and processes. This workgroup includes the Department of Mental Health, Department of Developmental Services, Department of Aging, and the Department of Social Services. In addition to the State Workgroup, the DHCS is an active member of a National Anti-Fraud Workgroup comprised of members from the State Department of Justice, the Centers for Medicare and Medicaid Services, and anti-fraud staff from other participating States. This workgroup meets periodically to share new and innovative data mining and anti-fraud techniques.
- ***Growing a Stronger Organization.*** We aim to enhance the Department through consistent and effective communication with managers and staff; clear definition of goals; and development of milestones and benchmarks to achieve our objectives. I am working with our senior management team to develop a new strategic plan, refocusing our efforts on improving DHCS' role as a major purchaser of health care in California. The plan includes specific objectives that will further the mission and goals of DHCS, including the aforementioned effort to recruit and retain talented employees. We are soliciting feedback on the draft plan and its objectives from the entire Department and the stakeholder community, and we will establish regular forums for managers and staff to provide updates on their progress toward meeting milestones.

Question 2

How do you see your role in facilitating efficient and effective health care programs?

During my career, I have gained a reputation for unquestionable integrity and demonstrated in-depth knowledge and experience regarding administrative functions and operations. I see my role as a leader to closely monitor and improve the due diligence requirements and controlling functions of the organization. Additionally, I see my role as a leader to confront and resolve challenges and to ensure responsiveness to key partners, oversight bodies, and citizens of the State. As a member of the executive team of the organization it is my role to develop the strategy, "the vision," to accomplish our objectives. I will empower employees to translate that vision into action. Additionally, I will deliver "best practices" that serve to enhance the face of government, deliver results and inspire all to achieve high performance.

I am well equipped to evaluate the organization and provide recommendations to improve its operational efficiency and effectiveness. I consider myself to be an integral part of the Administration and a significant team player. My skills and experience will serve to advance ongoing efforts to build a strong organizational infrastructure, and I will continue our commitment to stay at the forefront of innovation and best practices. I am committed to build a strong organization with a focus on excellence.

The health care programs in the Department cannot succeed without a strong infrastructure. These programs must have the right personnel and other resources to function appropriately. My skills as an administrator will enable our infrastructure programs to support the success of the health care programs.

Question 3

How would you describe the relationship between DHCS and the counties?

DHCS has a positive and productive relationship with its county partners in spite of the complexity of the Medi-Cal program, the interaction of State and federal requirements, and DHCS's responsibility to determine the county's funding levels and oversee accurate and timely determination of beneficiary eligibility and program administration. As with any relationship, DHCS believes it can continue to improve this partnership.

DHCS recognizes that it is essential to involve counties in the development and review of policy instructions, while balancing the need to be responsive and transparent with other stakeholders and advocates as well. To this end, staff meets monthly with the County Welfare Director Association (CWDA) Medical Care and Self Sufficiency

Committees, and more frequently with CWDA staff, to discuss priorities and resolve operational problems or compliance issues.

Most recently, DHCS and the counties have worked collaboratively to implement two high priority federal requirements. The Deficit Reduction Act (DRA) required significant changes to documentation requirements to prove citizenship/identity for Medi-Cal eligibility. It was necessary to work closely with counties to develop instructions and procedures that would meet the federal requirements while ensuring eligibility for qualified recipients. The redesign of county and State eligibility systems, as well as notification to beneficiaries, required the technical expertise and cooperation of both State and county programs for successful implementation. This close collaboration resulted in procedures that minimize disruption to beneficiaries and system solutions that fully meet federal requirements. Also, DHCS has recently instituted restrictions to limit MEDS access due to requirements imposed by the Social Security Administration (SSA). These demands by SSA to implement new security measures for access to MEDS are designed to safeguard confidential SSA data. DHCS worked closely with CWDA and the counties to implement these security measures. In a very short window of time (June through October 2007) DHCS designed a new front end log-in system for access to MEDS that required issuing new ID's to over 50,000 county MEDS users. It was essential that DHCS work closely with the counties to avoid a disruption of the Medi-Cal eligibility function and implement a log-in system that would be user friendly and keep disruption of county staff access to MEDS to a minimum. Once counties were brought on board with the new SSA requirements, their cooperation was essential in the deployment of these enhanced safeguards that fully satisfied the demands from SSA.

The Fiscal Forecasting and Data Management Branch has been actively working on building and strengthening our partnership with the counties and CWDA. DHCS also works very closely with the county staff and their representatives to ensure adequate funding is available to the counties to perform tasks required to manage Medi-Cal processes at the county level. This collaboration between DHCS staff and staff from each of the 58 counties involves survey work, meetings, and individual communication via telephone and e-mail to ensure the funding needs of each county are met in a fiscally responsible manner. In addition, staff from DHCS attends monthly meetings of the Fiscal Committee and Twenty Small Counties Committee of CWDA to exchange information and ideas on various topics that are of importance to DHCS and the counties. This regular exchange has been vital in recent months to assist in developing strategies to ensure funding for special projects, including implementation of citizenship requirements of the DRA, and new information security requirements from the Social Security Administration regarding access to the MEDS computer system.

There is always room for improvement and DHCS must carefully consider how to best expend limited resources in order to address county needs and the populations we both serve. DHCS recognizes that its policy instructions issued in All County Welfare Directors Letters and regulations need updates and that additional training on eligibility policy and technical assistance would be very useful.

Overall, DHCS has a good working relationship with CWDA and the counties enabling DHCS to ensure that the State complies with federal and State eligibility determination laws and regulations, facilitates Medi-Cal enrollment for eligible Californians, and spends State and federal tax dollars on only those Californians who are eligible for services. I will measure our success through feedback from the counties and other stakeholders as well as through our ability to implement new policies in a timely and efficient manner.

Question #4

What actions is DHCS taking to comprehensively coordinate and monitor other departments' expenditures of federal Medicaid funds? How do you ensure that the funds are properly accounted for, and that the state complies with federal law and regulation?

As the single state agency responsible for the administration of the Medicaid program in California, DHCS works closely with other State departments to maximize federal dollars and ensure that all federal dollars are claimed according to federal and State rules governing the Medicaid program.

Working collaboratively with these departments, DHCS strives to maximize federal funding thereby reducing fiscal pressures on the State general fund. For example, over the past several years the Department has worked with the Department of Social Services to maximize federal funding for the In Home Supportive Services program and with the Department of Public Health to increase federal funding for the Family PACT program. We provide other departments with technical assistance in order to maximize federal funding.

In addition, DHCS ensures compliance with federal and State rules regarding the expenditure of federal Title XIX funds by maintaining an active and consistent relationship with its State partners. DHCS' actions can be grouped into the following categories.

- 1. State Plan and Waiver Requirements:** *DHCS works very closely and collaboratively in crafting State Plan and Waiver language with other*

departments that have a role in the provision of Medi-Cal benefits. This collaboration is particularly critical in terms of the specific services that are provided by other departments. Both the State Plan and Waivers are in essence binding agreements with the federal government that we must follow to receive federal financial participation for our Medicaid program. We are subject, on an ongoing basis, to audits by the federal government to ensure that the terms and conditions of the state plan and waivers are being followed, and that federal funds are properly accounted for.

2. **Development of Interagency Agreements:** DHCS enters into an Interagency Agreement (IA) with each department that has a role in the provision of Medi-Cal benefits. These departments include Mental Health (DMH), Social Services (DSS), Developmental Services (DDS), Alcohol and Drug (ADP) and Aging (CDA). In addition to reflecting the scope-of-services spelled-out in the appropriate section of the state plan and/or waiver, the IA provides detail to ensure that specific services will be provided. The IA also articulates the applicable policies and guidelines and the maximum funding available to fulfill the requirements of the IA.
3. **Reviews of Interagency Agreement Invoices:** Before payment for services provided under an IA can occur, each invoice undergoes a review by DHCS accounting, administrative support, and program staff. The review includes, in the aggregate, a determination that the department subject to the IA provides a signed confirmation of compliance with the terms and conditions of the IA, that the encumbrance has not been overspent, and that the appropriate billing codes are used.
4. **Audits:** DHCS conducts audits of other departments' policies and procedures to ensure compliance. For example, DHCS audits the expenditures made by DDS in the operation of the Developmental Centers and reported in the annual cost reports. These are fiscal audits to ensure that amounts claimed for reimbursement are substantiated, related to the provision of care, and were determined in compliance with cost reimbursement rules promulgated by CMS. Based on these audits, DHCS provides on-going technical assistance to improve DDS's claiming process. DHCS conducts similar audits, as needed, with other departments.
5. **Quality Assurance oversight:** The Department continuously assesses the operations and the quality of services provided to Medi-Cal beneficiaries. Program staff within the Department monitor such waivers as the IHSS waiver to ensure that beneficiaries are receiving services per federal rules and regulations and so that the State can properly claim financial participation.
6. **Fraud Prevention:** As with the programs that the Department directly administers, DHCS must take an active role preventing and detecting fraud,

waste and abuse in the programs that other State departments administer. DHCS has established a Multi-Departmental Anti-Fraud Strategic Plan Workgroup. This workgroup is comprised of DHCS, DMH, ADP, DDS, and DSS executive level staff. The purpose of the workgroup is to address anti-fraud issues consistent with the DHCS Anti-Fraud Strategic Plan. Under both State and federal law, DHCS is the agency responsible for the management and appropriate expenditure of Medi-Cal funds and chairs the workgroup. The group meets bi-monthly and is in the process of working to gain even a deeper understanding of how each department processes Medi-Cal payments and what tools used by DHCS to combat fraud and abuse may also be available to the other departments for their use in curbing fraud and abuse in their respective programs. This workgroup has the support of the California Health and Human Services Agency.

7. **Conduct Medi-Cal Payment Error Rate Study:** In addition to the fiscal integrity processes discussed above, DHCS conducts an annual Medi-Cal Payment Error Rate Study (MPES). Beginning in 2003, DHCS received additional resources to perform reviews to identify where the Medi-Cal program is at greatest risk for paying claims with errors, and to ensure that Medi-Cal anti-fraud resources are focused on those program areas with the highest risk for financial loss.

These activities are ongoing and are provided both as oversight and technical assistance. The DHCS works regularly with the other departments to ensure and confirm that the terms and conditions of the state plan, waivers, and IAs are being followed. When necessary, DHCS assists other departments with implementing new protocols and procedures to ensure proper claiming of federal funding. This effort includes regular meetings, training sessions, and some visits to provider locations.

Question #5

How can DHCS more comprehensively coordinate with other departments delivering Medi-Cal funded programs, such as the departments of Mental Health and Developmental Services, regarding the exchange of technical information, such as provider and consumer data?

As mentioned above, it is imperative that DHCS work closely with its State partners charged with directly administering Medi-Cal programs on DHCS' behalf. By having consistent and in depth communication with its partners, DHCS provides needed support that facilitates the smooth operation of the programs providing support to vulnerable populations and ensures the confidentiality of personal health information.

DHCS works closely with DMH to ensure that services are available only to eligible Medicaid beneficiaries through verification and proper use of MEDS, the Medi-Cal eligibility verification system. DHCS meets frequently with DMH to provide a forum for the exchange of information regarding upcoming issues or to communicate and describe changes. This forum allows for the exchange of technical information such as DHCS accounting information and technology systems information. The meetings also allow both parties to invite representatives from various areas of expertise to speak concerning current fiscal, claiming, billing and invoicing issues. DHCS Eligibility Division staff use this forum to liaison with DMH staff concerning eligibility issues, as does DHCS Information Technology Systems Division (ITSD) as it provides support for the current Short-Doyle/Medi-Cal (SD/MC) system. The Office of HIPAA Compliance staff likewise are working closely with DMH in the development of the new SD/MC Phase II automated system which should reconcile many of the current system and billing issues that have been recently identified.

Also, DHCS participates in a weekly DMH Fiscal Services Management Meeting, a County-State Claims Processing Improvement Task Force and a monthly Medi-Cal Mental Health Services Workgroup. The goal of these meetings is to sponsor a high-level forum wherein leaders within the Medi-Cal mental health systems are given an opportunity to share information, collaborate and provide recommendations about improvements to the Specialty Mental Health fiscal, IT, and program delivery systems.

Currently, DHCS staff is working with DMH staff to improve accounting and invoicing protocols. Further, DHCS staff is collaborating with DMH staff to incorporate tasks to address specific areas of concerns raised by the counties. At the same time, DHCS staff has been engaging CMS and the Department of Finance, OSAE, to ensure that federal fiscal integrity requirements are met regarding payment of federal financial participation (FFP). DHCS staff are also coordinating and working with their DMH counterparts to establish accurate and timely estimates of FFP expenses in the annual state budget.

Audits and Investigations will continue its efforts and coordination activities discussed above in response to Question 4. Audits and Investigations will continue to explore new data mining techniques, technologies, and processes for monitoring fraud and abuse in order to preserve program integrity of Medi-Cal expenditures by not only DHCS, but of all other departments responsible for the expenditure and control of Medi-Cal funds.

Question #6

Given the crucial interplay between your department and the counties, what is your view of the relationship between the State and the counties? What are the key challenges in this relationship? What steps do you think the Department can and should take to ensure it is providing the most effective leadership to counties to ensure a smooth and efficient operation of the administration of the Medi-Cal eligibility process?

- ***View of relationship between State and counties:*** *The State/county relationship is positive and respectful. State and county staffs regularly meet to discuss priorities, impending policy or operational issues, and performance standards. State staff actively represents State and county interests and concerns to our federal counterparts and stakeholders. The counties continuously strive to properly implement complex, federally mandated program requirements and standards necessary for the efficient operation of the program. State staff seeks, recognizes, and publicizes county best practices to assist counties in meeting performance challenges. Open and frequent communication has been the cornerstone of the relationship, and this routine consultation is possibly the most essential element in ensuring the ongoing administration of the program.*
- ***Key challenges in this relationship:*** *Due to the diversity of the 58 counties, there are unique challenges in maintaining consistent policy and direction. It is essential for State staff to recognize this diversity, and to adjust expectations and working relationships accordingly. There are also challenges that impact all counties: implementation and management of complex and evolving federal programs (e.g. Deficit Reduction Act Citizenship documentation and Payment Error Rate Measurement), various lawsuits (e.g., Craig, Ledezma), transition to and refinement of county automated systems, increased program complexity and caseloads, and maintaining management responsibility and program accountability at the state level, while reasonably accommodating county needs and flexibility.*
- ***Providing effective leadership to counties while ensuring smooth and efficient operation of the Medi-Cal eligibility process:*** *It is essential for State staff to be knowledgeable of county Medi-Cal eligibility management issues, processes and challenges. While the State recognizes the need to maintain uniformity, it is critical that the State appreciate the significant diversity of counties, their challenges and the populations that they serve. The State must document program and eligibility policies that impact State and federal*

requirements and policies and prioritize program management rules and authorities. The direction provided to counties must be available in a timely manner to provide sufficient time to train staff, program automated systems, and respond to issues necessary to facilitate county performance. State staff work directly with counties to translate policies into operations and business rules and thereby reconcile any unanticipated consequences in a timely manner.

State staff has initiated regular meetings with county organizations, individual counties and automated system consortia to further these efforts and proactively discuss mutual program concerns. DHCS has recently convened bi-annual County Summit Conferences to present current and anticipated Medi-Cal program issues to county staff, showcase best practices and program priorities and obtain feedback from county staff on program direction.

The keys to a smooth and efficient administration of the Medi-Cal eligibility process are close working relationships between State and county staff, open communication, and timely and carefully vetted program policies and procedures.

Question #7

What steps are you taking to ensure a successful MMIS automation project?

California's MMIS (CA-MMIS), is the largest and most complex Medicaid claims processing system in the nation. It is a 30-year-old, mainframe, legacy system, which has been modified innumerable times to keep up with the ever-increasing complexity of the Medi-Cal program. Continued maintenance work and system changes have become extremely costly and time intensive, no longer meeting the needs of the Medi-Cal program. A recent CA-MMIS assessment indicated that the core MMIS components are beyond the end of their life cycle and recommended that the effort to replace the system should begin immediately to ensure the future integrity of claims processing.

A new system will enable the Department to:

- Accomplish system changes faster and be more responsive to ongoing changes in the Medi-Cal program*
- Create an environment for integrating the business and information technology (IT) environments to improve program management*
- Provide a solid platform for future growth with scalable architecture that can grow and change*

- *Support the Department's move toward Health Information Exchange/Health Information Technologies to support improved outcomes and quality services for Medi-Cal beneficiaries*
- *Support enhanced fraud detection and prevention strategies*
- *Provide easier access for the provider community to submit claim documents and retrieve status information, billing information, and assistance*
- *Align the MMIS with current industry standards to enable more competitive bid processes in future procurements*

Replacing CA-MMIS puts the Department in 'uncharted waters,' as this type of effort has not been attempted by California for more than 30 years. The Department recognizes that there are risks associated with replacing our 30-year-old system. Several other states have embarked on a new system procurement process and have faced significant problems. The Department has taken or will take the following action(s) to ensure a successful MMIS transition to a new system.

- *The Department has hired 20 multi-disciplinary staff dedicated full time to the re-procurement effort, (17 of these positions were approved for three-year limited term positions in budget year 2007/2008, and three are internally redirected staff). These staff consist of subject matter experts from both the Medi-Cal policy and MMIS areas and will ensure that business/policy rules are adequately documented and included as requirements for the new system. Additionally, the Department has contracted with FOX Systems Inc to assist the State in preparation of the request for proposal, which will include the system replacement component. FOX Systems has over 20 years experience helping state Medicaid agencies with RFP development, procurement support, information systems requirements analysis, and IV&V for implementation of Medicaid systems. FOX will be engaged throughout the procurement cycle.*
- *The Department continues to meet with other state Medicaid programs and track their implementation in order to document the key ingredients for the successful implementation of a new system.*
- *The Department will follow the Medicaid Information Technology Architecture (MITA) guidelines in writing the system replacement requirements. These guidelines, which are mandated by the Federal Centers for Medicare and Medicaid, foster integrated business and IT transformation across the business functions of Medi-Cal to improve its*

administration.

- The Department is developing an RFP that designs the takeover of existing operations and the development of a new system in a way that will ensure competition among multiple vendors. A high level of competition will ensure that the State awards the contract to the vendor with the best technical proposal and best price.*
- The Department will procure an independent contractor to provide technical IT expertise to assist with evaluation of the technical architecture and system(s) proposed for the replacement.*
- The Department will take guidance from a Policy Advisory Committee (PAC), consisting of division and executive level management throughout DHCS as well as management and executive representatives from other departments and agencies at the federal and state level. The Department will also consider results of a survey from Medi-Cal providers regarding changes/enhancements desired of the new contract and/or system.*
- The Department will secure separate, independent project manager to oversee the System Replacement Project.*
- The Department will allow for one planning year to begin following a successful takeover of the existing system and contract. This year is intended to be used to validate and update system requirements.*
- Design, Development & Implementation, (DD&I) will begin following successful planning and approval of enhanced federal financial participation. Three full years will be allowed for DD&I.*
- The Department will require 6 to 9 months of successful 'parallel' testing prior to approving the system for implementation. This parallel testing will ensure uninterrupted operations of the current claims processing system during the entire development cycle of the new system.*

Question #8

What enhancements will be included in the new system to allow DHCS to better manage the Medi-Cal program? For example, do you believe the system should track beneficiaries with chronic conditions and monitor the services they receive to determine whether their conditions improve or deteriorate?

As discussed earlier, the new MMIS system will improve the management of the Medi-Cal program by:

- Enabling quicker implementation of statutory and regulatory changes because system changes will be faster*
- Creating an environment for integrating the business and information technology (IT) environments to improve management*
- Providing a solid platform for future growth with scalable architecture that can grow and change*
- Supporting enhanced fraud detection and prevention strategies*
- Providing easier access for the provider community to submit claim documents and retrieve status information, billing information, and assistance*

The development of a new system provides the Department with the opportunity to establish standards for supporting the Department's move toward Health Information Exchange/Health Information Technologies that will improve healthcare quality, effectiveness and efficiency for Medi-Cal beneficiaries. Health information exchange opportunities that can be implemented using a new MMIS include:

- **Point of Care Clinical Information:** Sharing Medi-Cal's claim data with health care providers, regional health information organizations and immunization registries. The Department supports the goal of enabling the sharing of essential clinical and coverage information at the point of care.*
- **Personal Health Records:** Many of the new MMIS systems in other states will provide beneficiaries with access to their personal health information by compiling claims information into a secure, on-line record. Similar features are being considered for our new system.*
- **Provider Information:** Providers can have real time access clinical information about the Medi-Cal beneficiaries that they treat.*

The Department will require that the new system be flexible and able to adapt quickly to both policy and performance changes. The new system will have readily available data and data mining tools to support the automation of many activities that are used to manage the Medi-Cal program. For instance, the system will support the tracking of beneficiaries with chronic conditions and aid in analyzing health outcomes and 'best practices.' The system will be able to use predictive modeling techniques to assess which beneficiaries are likely to need follow up case management.

The new system will also enable the Department to implement policies that will contribute to better health care. Examples of such policies include the ability to identify patients on multiple medications with the potential for dangerous side effects and the ability to implement a program to allow the patient to try cheaper drugs before much more expensive drugs are prescribed.

Question #9

Will MMIS be enhanced to allow the running of additional fraud-detection programs?

DHCS has already taken steps to utilize a new automated technology tool to better identify potential fraud schemes and identify patterns of potential fraud and abuse. This new technology captures both current and historical data about patients relevant to the claims submitted by providers. Identification of patterns of fraud and abuse at the earliest possible point allow DHCS to take the appropriate punitive actions and avoid potential loss of program dollars. These newly identified fraud schemes may also provide the basis for modifying existing regulations, policies and/or claims processes to prevent future payment of fraudulent claims. Utilization of this new tool was implemented in January 2007.

The new MMIS system will maximize the use of state of the art technology that can seamlessly integrate other important Medi-Cal information management tools including a more advanced and robust fraud detection system and an electronic health record system. This new system will include features that will:

- Enable the core claims processing systems to interface with other state of the art support tools that facilitate beneficiary and provider profiling*
- Enhance the system's edits that are designed to detect and prevent incorrect payments and enforce policy, including editing the claim against the claims history of the beneficiary*
- Enhance the Fiscal Intermediary's use of new technology to examine claims on a near real-time basis (Today, the claims examined are one-week old.) The Department will have the ability to prevent payment to providers and avoid the pay- and- chase scenario.*

While modern IT detection tools are a critical component of the Department's anti-fraud efforts, not even the most sophisticated IT system will be able to completely guard against providers who engage in willful deceit. It will always take a combination of technology and on-the-ground staff to detect and curb fraud and abuse.

Question #10

What percentage of the department's managers do you anticipate will retire over the next two years and the next five years?

Recent statistics indicate that 44% of the State's current workforce is over the age of 45. Up to 35%, or more than 70,000 employees, will be eligible to retire in the next five years. Some independent studies have estimated that this number could be much higher, ranging as high as 49%, or as many as 100,000 employees. According to CalPERs statistics, the average age of service retirement is 60, and the average years of state service is 22.6.

Although it is difficult to anticipate or predict the number of current DHCS management staff that will retire over the next two to five years, 64% of the current DHCS management workforce is eligible (age 50 or over) to retire in 2008. Approximately 15% of our current managerial workforce is in the 50-52 age range. While technically eligible to retire now, we anticipate that the majority of these individuals will remain employed until at least age 55 and will not likely retire until the year 2011 or beyond. Currently, 24% of our managerial staff is in the 55-59 age range and approximately 17% is age 60 or over. Based upon the CalPERs statistics relative to average retirement age, we anticipate that over the next 2-5 years, approximately 41% of our current managers could retire. Recognizing the potential for a significant loss of expertise, experience, and institutional knowledge we are taking important and immediate steps (see below) to mitigate the loss of experienced supervisory staff and ensure that "knowledge transfer" is a top priority in DHCS.

Question #11

What actions have you taken to prepare for this potential staff turnover to minimize the impact on program operations? Specifically, how do you propose to attract and train replacement staff and also retain existing staff, where appropriate?

As evidenced by the retirement statistics in Question #10 above, DHCS faces significant challenges in recruiting and retaining a workforce capable of fulfilling its mission. We must identify staffing issues and strategies for attracting, developing, and retaining a highly qualified and diverse workforce. The reactive approach of addressing workforce staffing on a vacancy by vacancy basis will no longer suffice. Activities that include workforce planning and knowledge transfer are essential for implementing staffing strategies. My goal is to establish a Workforce Planning and Development Unit within

DHCS. This unit will be dedicated to developing, implementing and maintaining workforce analysis, recruitment and retention, and staff development strategies including leadership development and knowledge transfer. It is imperative that DHCS adopt a strategic approach to workforce planning and staff development to ensure we have the right number of people with the right skills, experience and competencies, in the right jobs, at the right time.

My vision for the major functions and responsibilities of the Workforce Planning and Development Unit are as follows:

- Workforce analysis: The foundation of workforce planning, workforce analysis will: 1) identify and document mission-critical occupations and competencies; 2) identify competency gaps between the current and future workforce; and 3) recommend gap reduction strategies. An inclusive process, workforce analysis will draw together strategic planners, program management, human resource experts, and program staff working in partnership with employee unions.*
- Recruitment and Retention: An overarching program to provide leadership and coordination for Department recruitment efforts, and to market the Department as an employer for the future. A primary responsibility will be exploring recruitment techniques and hiring incentive options while developing working relationships with professional organizations, and academia.*
- Staff Development: Building on identified core competencies, identifies strategies for developing core competencies of employees in their current job classification as well as developing core competencies for movement into new levels of their chosen career path.*

Workforce and Succession planning are necessary to provide DHCS program management with a strategic basis for human resources management decision-making that is based on achieving program goals. Identifying competencies in the workforce and knowing the competencies needed, will provide critical information for making strategic staffing decisions. Workforce analysis will provide data that allows managers to anticipate turnover and to plan recruiting and employee development as we move toward the workforce needed in the future.

Staff development provides a comprehensive, streamlined process overarching the various aspects in developing a competent workforce, and identifying cost effective options that ensure staff develops the needed competencies.

Coordination of recruitment will provide DHCS management with a framework for making staffing decisions based on anticipated change rather than being surprised by events. It will also provide a strategic plan for addressing present and anticipated workforce issues based on mission, budgetary resources and desired workforce competencies.

Under my leadership, DHCS is currently an active participant on the California Health and Human Services (CHHS) Succession Planning and Management Workgroup, comprised of CHHS Directors, Chief Deputy Directors, Administration Deputy Directors, Personnel Officers, Training Officers, and Exam Supervisors. This workgroup has been actively engaged in moving the CHHS and its member departments fast-forward in the areas of workforce planning and succession planning. This workgroup recently developed and administered the first Open Staff Services Manager I examination given in State service in over 40 years and DHCS Human Resources staff played a key role in the success of this endeavor. This tremendous undertaking required significant staff time (over 1 ½ years of planning) and resources. The examination was conducted in 12 locations and resulted in over 3,500 participants statewide. The effort and resources were devoted to this exam because of our recognized need to reach out and bring in new talent from outside of state government. With the completion of the Open SSM I examination, the CHHS Agency and its departments will now look at other possible classifications to consider to offer on an open basis, including but not limited to Staff Services Manager II and Staff Services Manager III.

DHCS is an active participant in a custom designed Supervisor's Academy which meets the mandatory Government Code section 19995.4(b) training requirement. The curriculum includes the requisite training on the role of a first-line supervisor relative to performance, progressive discipline, etc.; but more importantly also includes CHHS core competencies and sets a clear vision of management expectations for all Agency management. In addition to the Supervisory Academy, the workgroup developed the CHHS Leadership Development Academy (LDA). The LDA pilot commenced in October 2007 and the design and delivery mirrors the lessons learned from the Supervisors' Academy. The CHHS core competencies formed the basis of the Competency Model that is being used as part of the Academy design and the 360 survey, a key component of self-growth and development associated with the LDA. The LDA grows CHHS leadership excellence and knowledge in all who participate.

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Senate Confirmation Hearing
Stan Rosenstein, Chief Deputy Director of Health Care Programs
California Department of Health Care Services
March 12, 2008

Senate Rules Committee

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Appointments

GOALS

1. ***Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as chief deputy director of DHCS? How will you measure your success?***

As Chief Deputy Director for Health Care Programs in the newly reorganized Department of Health Care Services my primary responsibility is to deliver health care benefits to over 8 million people who receive health care from the programs offered by the Department, to provide funding to ensure the viability of the health care safety net for all Californians, to provide federal Medicaid funding to numerous state, county, and school programs in the state, and to ensure that state and federal funds are spent in an appropriate and cost effective manner with the utmost integrity.

With many years of experience in the management of these programs and nationally recognized program expertise, I am focused on ensuring that the needs of the state are met. Whether the task at hand is enrolling eligible people in the program, ensuring they get the benefits to which they are entitled, ensuring proper and timely payment to providers, taking action to keep hospitals and clinics open and serving the people of the state, improving the state's ability as a purchaser of services, or ensuring that State and federal dollars are well managed, I devote enormous time and energy to these tasks.

The State is in a point of transition during which many individuals with long careers in public service, such as me, will be retiring. As such, one of my major roles is succession planning to ensure that the State has a stable and capable workforce.

I have the following goals:

- ***Ensure that the reorganization of the Department of Health Care Services is effective.*** It is my desire to make the Department more effective and responsive to the public, improve staff accountability and responsiveness, develop a stronger and more capable management team, and improve the interaction between the programs within the Department and between the various state Departments that use Medicaid funding. Success in accomplishing this goal can be measured by a more responsive Department where problems are addressed and resolved in lower levels of the organization.

- ***Improve how the Department purchases health care services from providers, manufacturers, and health plans.*** The Department needs to ensure that the State receives the best value possible for the money it spends on health care services. It must do so by purchasing in a cost effective manner and, to the extent possible, measuring the quality of these services. Success can be measured by improvements in how effectively the Department's programs obtain the best value in services from providers and manufacturers, and by the creation of greater program transparency, including publishing performance measures of the Department's programs.
- ***Improve how the Department's administrative functions operate in areas such as provider enrollment, claims processing, treatment authorization processing, and California Children's Services program eligibility and authorization processing.*** Success can be measured by reduced processing times, greater consistency of processing, better customer service, and improved outcomes that ensure that providers and beneficiaries receive appropriate services.
- ***Promote enrollment of eligible persons into the programs operated by the Department.*** The Department needs to work closely with the counties and the Federal Government to ensure that eligible people are able to enroll in the Department's programs and remain enrolled as long as they are eligible. Success can be measured by how well enrollment processes function, how well counties operate, and in cases where problems occur, the nature and effectiveness of corrective actions taken.
- ***Ensure the viability and availability of safety net services.*** The Department provides significant funding to safety-net providers to ensure that they are available to all Californians. The Department has a significant role in developing legitimate funding opportunities for safety-net providers, negotiating with the Federal Government to obtain appropriate federal funding for these providers, and in implementing and operating payment systems that ensure these providers are paid on a timely basis. Success is measured by the timeliness of payments and by the ability to continue to develop legitimate funding opportunities for these safety-net providers.
- ***Reduce fraud, abuse and waste in the health care programs.*** Regrettably, fraud, abuse and waste continue to be major issues in the administration of health care programs. As the nature of fraud changes, the Department must always be vigilant to address these issues. It must create systems and processes to prevent problems before they occur, and to detect

problems when they occur. Success will be measured by the methods that are put in place to prevent fraud, waste and abuse, and by the systems put in place to detect and eliminate the problem.

- ***Advance the federal Olmstead Decision in California by improving existing long-term care programs and creating new programs that provide Medi-Cal beneficiaries with the opportunity to receive long-term care services in their homes and communities.*** The Department needs to continue its collaborative work with its governmental partners (federal, other state agencies, local government), long-term care facility organizations, provider communities, and advocacy groups in increasing awareness of current home and community-based services options, and creating additional home and community-based long-term care options and capacity. Success can be measured by several indicators, including the numbers of beneficiaries transitioned from institutional settings to the community; the numbers of beneficiaries enrolled in PACE/SCAN programs; increases in numbers of home and community-based services providers, increases in the services offered in the community; and continued stabilization of the numbers of beneficiaries receiving facility-based long-term care services.
- ***Recruit, retain, and train qualified staff.*** In order to address succession planning and workforce development, it is critical that the Department hire capable staff to fill its positions and train its workforce to effectively lead operations in future years. The Department, like the State as a whole, has and will lose significant experienced and knowledgeable staff to retirement. It must replace them to ensure a strong workforce for the future. Success will be measured by the creation of processes and structures to recruit, train and develop new staff, and to reward excellence in employee performance.

NATIONAL ASSOCIATION OF STATE MEDICAID DIRECTORS (NASMD)

2. ***Currently you are the vice-chair of the National Association of State Medicaid Directors. What responsibilities does this position place upon you? What do you believe is the biggest benefit of being an active member of the association?***

I am privileged to be in a national leadership position as the Vice-Chair of the National Association of State Medicaid Directors (NASMD). NASMD is a bipartisan association of state officials who run the nation's Medicaid programs. As Vice-Chair, I provide direction to the Association on establishing policy positions related to the Medicaid program, working with the Federal

Administration and Congress on various policy and legislative changes, and conducting press briefings to highlight the importance of the Medicaid program and the various issues that states face. Serving in this leadership position allows me to participate in many policy discussions with other states and members of the Administration and Congress. This allows me to become better educated about the issues and more effectively represent California's positions. For example, I led the states' efforts to address issues related to the federal implementation of the Medicare drug program, improving continuity of care for people dual eligible for Medicare and Medi-Cal. This resulted in the State obtaining over \$63 million in federal reimbursement for costs incurred during the transition, and a significant reduction in what the State pays the Federal Government for assuming responsibility from the states drug coverage for people eligible for both Medi-Cal and Medicare (the clawback payment).

In this leadership position, I routinely participate in calls with nine other states and in calls and meetings with the Centers for Medicare & Medicaid Services (CMS) in their development of national policy. In these calls, I am able to represent California's position on these issues. Because of this leadership position, I personally have developed relationships with decision makers in Washington, D.C. and have greater access to these policymakers on behalf of the State.

NASMD also works closely with the National Governor's Association and the National Conference of State Legislatures on policy issues. Serving as Vice Chair of NASMD provides me with better opportunities to work with these two associations.

3. *What are the key federal issues being faced by California's Medi-Cal Program? Would most states cite these same concerns?*

As Medi-Cal is a joint federal-state program there are many issues that affect the State. These include: implementation of a wide range of federal requirements, ranging from the implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), implementation of the Deficit Reduction Act of 2005 (DRA), and implementation of the new requirements for tamper proof prescription pads. Further, there are several proposed changes in federal law or rules that impact California's Medi-Cal program, as does the reauthorization of the State Children's Health Insurance Program (SCHIP) and the recently released President's Budget. All State Medicaid programs would concur that these federal issues impact their Medicaid programs to various degrees, similar to California.

At this point, I would like to focus on three major federal issues facing California that affect the Medi-Cal program. Based on my experience with monthly policy discussions with other states, they would share California's positions on these issues:

- Reauthorization of the State Children's Health Insurance (SCHIP) Program. While the Healthy Families Program is far more impacted by the reauthorization of this program, the Medi-Cal program receives significant SCHIP federal funding. It is estimated that for Fiscal Year 2007-08, Medi-Cal will receive approximately \$380 million in federal SCHIP funding. It is critical that the State receive sufficient funding for both Healthy Families and Medi-Cal.
- Federal Partnership. Historically, the Federal Government and states have operated Medicaid as a partnership with each government contributing its share of funding and by operating the program under a combination of federal and state law. Over the last two years this relationship has changed and now the Center for Medicare and Medicaid Services (CMS) has switched to more of an oversight role, seeking to enforce new and changing federal policy that restricts the ability of states to operate and to fund critical parts of its health care programs. States are now subject to extensive audits and all programs undergo much greater scrutiny. While it is appropriate for the federal government to hold states responsible for the proper administration of the program, this is often being done in a manner that impedes programs and causes some federal approval processes to take years to reach completion.
- New Federal Regulations. CMS has issued seven new regulation packages designed to reduce federal Medicaid funding to the State, to hospitals, to counties, and to school districts. Many of these regulation packages were rejected by Congress as budget savings proposals because they eliminate federal funding for legitimate health care costs while passing those unfunded costs on to the states. For example, for more than 40 years Medicaid has helped fund the cost of graduate medical education, assisting in the development of physicians and paying for the cost of residents who treat many people on the Medicaid program. Without much explanation of the rationale, one regulation package proposes to eliminate this longstanding funding. Many of these regulations I have mentioned are now under moratoriums adopted by Congress and were signed into law by the President. The final outcome of these regulations will have a long lasting effect on the

nature of the Medi-Cal program and the budgets of the State, counties and school districts throughout the state.

Governor Schwarzenegger has written letters to Congressional members highlighting the negative impacts the federal rules have on Medi-Cal and how the rules have gone beyond Congressional intent. In part, based upon my experience and my role as an officer in the NASMD, California has been able to assume a national leadership role on these regulations.

HEALTH CARE COVERAGE INITIATIVE

- 4. *The first year of the program began September 1, 2007. What challenges have the counties faced in establishing their programs? What role does the department have, if any, in assisting the counties?***

The Health Care Coverage Initiative (CI) provides a rare but important opportunity to provide health care coverage to low-income, uninsured populations through \$180 million in federal funding made available under the hospital financing waiver. The CI was structured to allow each participating county to design a program for the unique needs of its population that delivers enhanced services to those who already receive care through the county's programs. These enhanced services include primary and preventive care or focus on patients with chronic conditions to reduce the need for high cost care, including inpatient hospital services.

While the ten counties with CI programs have encountered challenges in establishing their programs, they are making significant progress toward program implementation. The challenges encountered by CI counties include:

- Delayed federal approval of the amended Special Terms and Conditions (STCs) of the hospital financing waiver, which delayed CI start-up activities and program enrollments.
- Federal requirements that have the potential to reduce the number of enrollees in each county.
- Complex federal claiming requirements that are in some cases still being defined.

DHCS is working closely with each CI county to ensure it can fully implement its program and have sufficient expenditures to claim federal funds. To this end, DHCS provides ongoing technical assistance, guidance and direction through

regularly scheduled teleconferences and timely responses to implementation questions.

DHCS has also worked closely with the federal government to resolve open issues and provide the counties with as much flexibility as possible.

Additionally, DHCS has supported the California Endowment and the California Healthcare Foundation (Foundation) in providing a technical assistance program for the CI counties through a series of learning sessions. The third in the series, entitled "Learning Sessions to Support County Coverage Initiatives for the Uninsured," was hosted by the Foundation on February 14, 2008. These sessions focus on patient medical information systems; participant enrollment systems; provider agreements; service coordination systems; and utilization tracking and case management systems.

DHCS is working closely with the Foundation to determine whether the State can provide additional assistance to CI counties.

5. ***SB 1448 specified that the department arrange for an evaluation of the programs funded under the initiative. What steps has the department taken to prepare an evaluation of the funded programs?***

The Department has initiated an interagency agreement with the Regents of the University of California, Center for Health Policy Research, for the period of November 1, 2007 through August 31, 2012, for development and implementation of a research methodology to evaluate the CI programs. The Center was chosen because of its extensive experience in conducting program evaluations for public and private entities.

Senate Bill (SB) 1448 and the terms and conditions of the waiver specified seven outcomes that must be met by CI programs. The evaluation will assess the extent to which these seven outcomes are met by individual CI programs. The learning sessions being hosted by the Foundation are aimed at identifying the systems that must be in place to ensure sufficient data is captured for the evaluation.

DEFICIT REDUCTION ACT—CITIZENSHIP VERIFICATION REQUIREMENTS

6. *How is DHCS monitoring the counties' implementation of the Deficit Reduction Act?*

DHCS has worked with stakeholder groups, including counties, consumer advocate organizations, and providers, to fully and responsibly implement the DRA requirements in a manner that fully complies with federal law. California has worked with stakeholders and the counties to ensure that citizens provide the federally required documentation as a condition of receiving full scope Medi-Cal coverage. At the same time, DHCS has strived to make the process as streamlined as possible for applicants and county eligibility workers to ensure that eligible citizens are not denied Medi-Cal coverage.

DHCS's implementation process began with an automated match of Medi-Cal data with the State's birth certificate records. This meant that the State could quickly verify the citizenship status of over one-half the beneficiaries subject to this requirement without any work on behalf of the counties or beneficiaries. Further, the Department implemented a computer program that allows counties to directly access California birth certificate information, increasing the ability of Medi-Cal to verify citizenship while at the same time reducing the work that counties have to do in this verification.

The DHCS is responsible for ensuring county compliance with the new DRA requirement. DHCS is working with counties to ensure they implement in a timely manner, while also ensuring counties have adequate time to plan and modify their business operations and train staff in the application of complex business rules. In addition, DHCS must monitor how counties' implementation of the new requirements impacts applicants and recipients. Current efforts to monitor county implementation of DRA citizenship and identity verification requirements include:

- Meeting regularly with county systems representatives to discuss implementation requirements for the county automated eligibility systems.
- Meeting regularly with business partners and stakeholder groups to gauge the impact of DRA implementation on consumers at the community level.
- Developing system generated reporting mechanisms to monitor and evaluate the DRA impact on Medi-Cal applicants and recipients by measuring overall enrollment levels, reductions in recipient entitlement to full scope coverage, and new applicant approval for only limited scope coverage.

- Collaborating with external research organizations, including work being funded by the California Healthcare Foundation to perform in-depth evaluations of the impact of DRA implementation on counties and beneficiaries.

7. *The implementation of the Deficit Reduction Act would appear to require a significant amount of county eligibility staff time. Other than the automated match, are there other steps the DHCS can take to assist counties in this task?*

These requirements do add a significant amount of time for the counties to verify citizenship and identity information. Based on our experience and our collaborative relationship with county eligibility staff, the Department strives to make the process as streamlined as possible for applicants and county eligibility workers. We have developed informational material including posters and flyers to assist counties with informing applicants and beneficiaries of the new requirements, provided policy direction as part of the all county welfare director's letter, which counties have used to effect the changes, and developed system changes to facilitate the sharing of electronic information that can be used for complying with the DRA requirements. Specific activities include:

- As noted in the question, the Department has implemented an automated California birth record match transaction that allows the counties to obtain electronic California birth record data, which is acceptable evidence of citizenship, and will automatically update this database on a monthly basis. Well over one-half the work required by this federal law is being accomplished through this automated system.
- As allowed under federal rules, the Department has authorized safety-net hospitals and community clinics to verify that birth certificates, driver's licenses, and other documentation are originals and submit a copy of this documentation and the verification to the county. This process will allow the current mail-in application process to continue and reduce the need for applicants and beneficiaries to come into the county office to provide original copies of these documents.
- The Department has developed several forms, notices and posters that will assist counties in the administration of the new requirements.
- The State has developed and issued specialized notices of action that are needed for DRA implementation. The beneficiary notices will be translated into 12 threshold languages and made available to the counties on the DHCS website.

- The State has set up a special website that is used to quickly disseminate new information about the DRA requirements to the counties. The website includes questions and answers to help the counties with implementation of the new requirements and is updated on an ongoing basis.
- Department staff has given a number of presentations at eligibility worker conferences to explain the new requirements to workers and periodically participates in a statewide phone conference with counties and stakeholders to discuss DRA implementation issues.
- We will be looking to expand the automated birth record match to individuals born outside of California. This will, however, depend on California's ability to obtain birth record data from other states, as this system is not yet in place.
- The Department has issued information notices to beneficiaries to tell them about the new DRA citizenship and identity requirements, and what they can expect from the counties. Beneficiaries are also being informed if there was a California birth record match.
- The State is preparing to implement system changes to the Medi-Cal Eligibility Data Systems (MEDS) that will assist the counties with implementation of these new requirements while the county automated systems are being updated. These changes to the state system should be in place early this year, enabling interim solutions for approval of limited scope coverage and expanding the birth record database match.

THE SINGLE STATE AGENCY FOR MEDICAID

8. ***What actions is DHCS taking to comprehensively coordinate and monitor other departments' expenditures of federal Medicaid funds? How do you ensure that the funds are properly accounted for, and that the state complies with federal law and regulation?***

As the single state agency responsible for the administration of the Medicaid program in California, DHCS works closely with other state Departments to maximize federal dollars and ensure that all federal dollars are claimed according to federal and state rules governing the Medicaid program.

Working collaboratively with these departments, DHCS strives to maximize federal funding, thereby reducing fiscal pressures on the state general fund. For example, over the past several years it has worked with the Department of Social Services (DSS) to maximize federal funding for the In Home Supportive Services program and with the Department of Developmental Service (DDS) federal funding for the developmental centers. For example, with the upcoming closure of Agnews Developmental Center, DDS faced the loss of its Medicaid funding for

its outpatient clinic that would remain after the closure of the developmental center. DHCS found a way to continue this funding using the same claiming process as now used for the Developmental Center. DHCS' goal is to provide other Departments with technical assistance in order to maximize federal funding while ensuring that funds are properly claimed.

As the federally required single state agency for Medicaid, DHCS must legally certify every claim for federal funds and is required by CMS to provide oversight over all Medicaid expenditures. Therefore, DHCS ensures compliance with federal and state rules regarding the expenditure of federal Title XIX funds by maintaining an active and consistent relationship with its state partners. DHCS' actions can be grouped into the following categories.

- Technical Assistance. DHCS provides various State Departments with technical assistance on the federal rules for claiming Medicaid funds. Through this assistance, the Departments are informed on what claiming is allowable and what kinds of federal claims are not allowed.
- State Plan and Waiver Requirements. The DHCS works very closely and collaboratively in crafting state plan and waiver language with other departments that have a role in the provision of Medi-Cal benefits. This collaboration is particularly critical in terms of the specific services that are provided by these other departments. Both the state plan and waivers are in essence binding agreements with the Federal Government that must be followed by each state in order for the state to receive federal financial participation for its Medicaid program. The states are subject, on an ongoing basis, to being audited by the Federal Government to ensure that the terms and conditions of the state plan and waivers are being followed, and that federal funds are properly accounted for.
- Development of Interagency Agreements. The DHCS enters into an Interagency Agreement (IA) with each department that has a role in the provision of Medi-Cal benefits. These departments include Mental Health (DMH), Social Services (DSS), Developmental Services (DDS), Alcohol and Drug (ADP), Department of Aging (CDA). In addition to reflecting the scope-of-services spelled-out in the appropriate section of the state plan and/or waiver, the IA provides detail to ensure that specific services will be provided. The IA also articulates the applicable policies and guidelines and the maximum funding available to fulfill the requirements of the IA.

- Reviews of Interagency Agreement Invoices. Before payment for services provided under an IA can occur, each invoice undergoes a review by DHCS accounting, administrative support, and program staff. The review includes, in the aggregate, a determination that the department subject to the IA provides a signed confirmation of compliance with the terms and conditions of the IA, that the encumbrance has not been overspent, and that the appropriate billing codes are used.
- Audits. DHCS conducts audits of other Department policies and procedures to ensure compliance. For example, DHCS audits the expenditures made by DDS in the operation of the developmental centers and reported in the annual cost reports. These are fiscal audits made to ensure that amounts claimed for reimbursement are substantiated, related to the provision of care, and were determined in compliance with cost reimbursement rules promulgated by CMS. Based on these audits, DHCS provides ongoing technical assistance to improve DDS's claiming process. DHCS conducts similar audits, as needed, with other departments.
- Quality Assurance oversight. The Department continuously assesses the operations and the quality of services provided to Medi-Cal beneficiaries. Program staff within the Department monitor waivers such as the DDS waiver and the IHSS waiver to ensure that beneficiaries are receiving services per federal rules and regulations and so that the state can properly claim financial participation.
- Fraud Prevention. As with the fee for service and managed care programs that the Department directly administers, DHCS must take an active role in preventing and detecting fraud, waste and abuse in the programs that other state Departments administer. DHCS has established a Multi-Departmental Anti-Fraud Strategic Plan Workgroup. This is comprised of DHCS, DMH, ADP, DDS, and DSS executive level staff. The purpose of the workgroup is to address anti-fraud issues consistent with the DHCS Anti-Fraud Strategic Plan. Under both State and Federal law, DHCS is the agency responsible for the management and appropriate expenditure of Medi-Cal funds and chairs the workgroup. The group meets bi-monthly and is in the process of working to gain a deeper understanding of how each Department processes Medi-Cal payments and what tools used by DHCS to combat fraud and abuse may also be available to the other Departments. This workgroup has the support of the Health and Human Services Agency.

These activities are ongoing and are provided both as oversight and technical assistance. The DHCS works regularly with the other departments to ensure and confirm that the terms and conditions of the state plan, waivers, and IAs are being followed. When necessary, DHCS assists other Departments with implementing new protocols and procedures to ensure proper claiming of federal funding. This effort includes regular meetings, training sessions, and visits to provider locations.

9. *What role does DHCS have in ensuring the proper administration and billing of Medi-Cal services by other state departments? What actions have you taken, for example, to assist DMH in complying with federal law?*

As noted above, DHCS, as the single state agency responsible for the administration of the Medicaid program in California, works closely with other state Departments to maximize federal dollars and ensure that all federal dollars are claimed according to federal and state rules governing the Medicaid program.

It ensures proper claiming through a collaborative partnership whereby DHCS provides technical assistance to and oversight of other Departments' programs. The technical assistance and oversight are grounded in the state plan and waiver requirements, the Interagency Agreements, Invoice process, claims and quality assurance auditing, and fraud prevention.

In the case of the Specialty Mental Health Services Waiver program, DHCS, as the single state agency, actively administers and coordinates the Medicaid program to ensure that the funds spent by the Department of Mental Health (DMH) on mental health services meet federal and state Medicaid requirements pursuant to Title XIX of the Social Security Act, California's Medicaid State Plan and the terms and conditions of Medi-Cal Specialty Mental Health Services Consolidation Waiver.

DHCS and DMH staff work closely together to ensure that services are available only to eligible Medicaid beneficiaries through verification and proper use of MEDS, the Medi-Cal eligibility verification system. Claims for eligible Medicaid beneficiaries are then submitted to the Short-Doyle/Medi-Cal (SD/MC) Claims Processing System for adjudication. The claims must pass the SD/MC system series of edits and audits before being submitted to DHCS for FFP reimbursement.

DHCS staff also receives and reviews post-payment quarterly reconciliation reports from DMH. The reports are reviewed and the invoice amounts are reconciled to ensure that the correct FFP was paid each quarter, and that duplicate or overpayment amounts are returned to DHCS for reimbursement to CMS. Through this process, DHCS staff is also able to verify that the federal funding amounts are correctly posted or adjusted onto the federal claiming reports.

DHCS staff is currently working with DMH staff to make the following process improvements:

- Establish accounting and invoicing protocols to ensure fiscal integrity.
- Develop a new automated claims processing system that meets federal requirements.
- Collaborate with DMH staff to incorporate system modifications that meet the needs of the counties.
- Liaison with CMS and the Department of Finance Office of State Audits and Evaluations to ensure that federal fiscal integrity requirements are incorporated in DMH and DHCS processes.
- Establish accurate and timely estimates of Federal Financial Participation (FFP) expenses in the annual state budget.
- Review and provide assistance on drafting statutory language for the administrative process of the EPSDT program.

MEDI-CAL MANAGED CARE

10. Please give us an update of the expansion into the 13 counties.

Managed care offers the opportunity to improve the health outcomes of Medi-Cal beneficiaries by providing a coordinated system of care. The benefits of managed care are particularly evident for those individuals who have difficulty navigating the complex health care system and suffer from chronic health conditions. Managed care health plans assist these individuals in obtaining services and managing their health conditions. In January 2005, the Administration proposed a major expansion of Medi-Cal managed care into 13 new counties. The California Legislature subsequently approved this expansion.

The Department's January 2005 proposal included specific recommendations for implementing certain models of managed care in specific counties; however, the Department also recognized the importance of coordinating with the affected counties and securing their input and approval. DHCS has worked with each of the counties to fully consider their unique needs and concerns in its

implementation plans. As a result of these efforts, the Department has secured full approval from counties and local stakeholders to move forward with implementation of Medi-Cal managed care in 10 of the 13 counties. The following is the current status of our expansion efforts for each county.

- San Luis Obispo County
With significant commitment and assistance from the Santa Barbara Regional Health Authority, which operates a county organized health system (COHS), the Department is on track to enroll Medi-Cal beneficiaries into managed care beginning March 1, 2008.
- Placer County
The Department is on track to begin enrollment of Medi-Cal beneficiaries into managed care beginning May 1, 2008. Four health plans responded to the Department's Request for Application to operate Medi-Cal managed care plans under the Geographic Managed Care (GMC) model in Placer County. The participating health plans are Blue Cross, Health Net, Kaiser and Molina Healthcare. The California Medical Assistance Commission is currently completing contract negotiations with each health plan.
- Fresno, Madera and Kings Counties
Fresno is currently a Two-Plan model county. The DHCS original recommendation called for Fresno to join Madera, Kings and Merced Counties to become a regional GMC model. Merced requested permission to pursue the county organized health system (COHS) model (see below) and has not been working with the remaining three counties. Fresno, Madera and Kings Counties prefer the Two-Plan model and have secured funds from the California HealthCare Foundation to hire a consultant to research the governance and cost involved with delegating a health plan as a local initiative. The three counties are scheduled to provide the Department with the consultant's analysis and recommendations for a tri-county regional Two-Plan model by the end of March 2008. In the event that a regional Two-Plan model is not feasible, the Department will pursue its original plan to implement a regional GMC model.
- Merced and Ventura Counties
The original DHCS proposal called for Merced to become part of a regional GMC model in the Central Valley and recommended that Ventura County become part of Santa Barbara Health Authority's COHS model. However, both Counties expressed a desire to become their own COHS, which requires federal legislation. The Department is supportive of the Counties' desires to

become COHS and will work with them on alternatives if federal legislation is not enacted. Both Counties are still working to get legislation passed, but Merced is considering other options such as becoming part of an existing COHS plan.

- Marin, Lake, Mendocino and Sonoma Counties

With significant leadership and support from Partnership HealthPlan of California, which operates a county organized health system in Napa, Yolo and Solano Counties, all four expansion Counties welcomed joining Partnership and implementing Medi-Cal managed care. The Department has developed proposed rates, and at this time, the health plan has determined that they would be inadequate for implementing managed care in Marin County. The health plan has also determined that it must wait to see its fiscal year (FY) 2008-09 managed care rates for Napa, Yolo and Solano before determining if it can expand into Lake, Mendocino and Sonoma counties. The health plan, expansion Counties and local stakeholders are supportive of implementing Medi-Cal managed care as soon as the health plan believes it can ensure financial stability with the State's capitation rates; until then, the Department must place a hold on expansion.

- El Dorado, Imperial and San Benito Counties

The Boards of Supervisors of these Counties are generally not supportive of implementing Medi-Cal managed care. Each of the Counties has significant resistance from local providers, particularly hospitals and other stakeholders.

11. ***DHCS contracted with Mercer, a consulting firm, to provide an analysis of the state's rate-setting process for Medi-Cal managed care. The report was released in February 2007. Please explain which recommendations from the Mercer report DHCS has and has not implemented. If recommendations have not been implemented, how did you make the determination of what recommendations to implement?***

Managed care rates are a critical component of a successful managed care program and assure that health plans are able to provide covered services to their members. In recent years, the Department has adjusted its methodology for developing managed care rates because of issues such as 1) the reduced availability of fee for service (FFS) data as more Medi-Cal beneficiaries enroll in managed care, and 2) revised federal requirements under the Balanced Budget Act of 1997. These issues were compounded by the Medi-Cal managed care program also having a prolonged period of frozen rates beginning in FY 2003-04.

The Department decided these issues were important enough to warrant an independent review of its managed care rate methodology by expert consultants. In May of 2005, DHCS engaged Mercer Human Resources Consulting (Mercer) to examine its capitation rate development methodology and recommend opportunities for improvement. The Mercer contained numerous recommendations, accompanied by the caveat that there is no single approach to rate development.

The DHCS acknowledged the value in these recommendations and adopted several of Mercer's prioritized recommendations in FY 2007-08 as follows:

- The use of current health plan encounter data supplemented as necessary for capitation rate development. The Department uses a 30-month data period, which it updates annually. For example, the period for base data in developing FY 2007-08 rates was July 2003 to December 2005 and reported or posted through June 2006, and the period for base data in developing FY 2008-09 rates will be July 2004 to December 2006 and reported or posted through June 2007.
- Development of county and/or model specific capitation rate processes. After careful examination of the available base data, the Department determined it could implement the recommendation.
- Standardized Medi-Cal financial reporting for health plans by major capitation risk group. The Department obtains this information through ad hoc cost and utilization reports.
- Detailed review of health plan financial statements to identify appropriate costs and factors for use in rate development. The actuaries use plan-submitted financial reports specific to the Medi-Cal line of business, with some minor exceptions where such data are not yet available.
- Rates that include a minimum rate of return of 2 percent and a reasonable administrative rate dependent upon the plan's model of business and administrative needs.

Because FY 2007-08 is a transitional year, the Department will implement additional changes to its rate methodology in future years as recommended by Mercer. Changes under consideration for the near future are as follows:

- The incorporation of a maternity supplemental payment to cover the cost of all deliveries. The supplemental payment will normalize health plan risk and cover prenatal services and the first several months of the child's birth. The services will be covered in the family rate and will be cost and budget neutral.

The Department will initiate this process in the Sacramento GMC Model on January 1, 2009 and will follow with statewide implementation in FY 2009-10.

- The Department will implement a Pay for Performance (P4P) incentive program that will include various performance incentives and rewards for efficiencies in FY 2009-10. Prior to implementation, the Department will discuss proposed P4P concepts with health plans and advocates before developing the P4P parameters, including performance measures, base line data, and incentive rewards.

Mercer recommended many opportunities for improvement to the rate development methodology but also stated that there is no single approach. The Department has not adopted the following recommendations, but reserves the right to do so in the future should it deem them viable:

- Develop additional mechanisms for risk assessment and risk adjustment to individual plan rates. This recommendation requires software procurement and is very diagnosis intensive. This is a very desirable change, but can only be done after the current rate process is stabilized and the Department has the resources to make this change.
- The use of risk corridors to mitigate risk for both the plan and state. These types of arrangements are usually adopted during the first two years of a new program, but are not typically implemented for mature programs, such as Medi-Cal Managed Care.
- Reinsurance mechanisms. The Department offered reinsurance in the past but only one plan accepted the offer. The arrangement is labor intensive as it requires extensive claims reconciliations. As a result, the Department will no longer offer reinsurance effective July 1, 2008. Mercer cites that reinsurance arrangements are only effective if there is mandatory, across the board participation. Health plans remain able to purchase their own reinsurance policies.

DISEASE MANAGEMENT PILOT PROJECTS

- 12. *Please provide an update of the status of the disease management pilot projects. What have been your findings thus far in the first pilot?***

The high cost of these few beneficiaries places significant financial pressures on the state's General Fund. For example, the most costly 2 percent of the Medi-Cal population consumed 40 percent of the cost in the fee-for-service program and 10 percent of Medi-Cal beneficiaries consume 74 percent of the fee-for-service program costs. In order to reduce the rate of growth of these high cost

users and improve their health care status, the Department must implement new approaches to better manage the care of Medi-Cal beneficiaries. Approaches must attempt to improve health outcomes and reduce health care costs.

Disease Management (DM) is designed to provide an integrated approach to healthcare delivery that seeks to improve health outcomes and reduce health care costs for persons with chronic diseases. The key components are the identification and proactive monitoring of high-risk populations, assistance to the beneficiaries and providers with adherence to an evidence-based treatment plan, consumer education, and the prevention of avoidable medical complications. DM focuses on beneficiaries with specific chronic conditions such as diabetes, congestive heart failure, and asthma.

The California effort to implement disease management programs is done through pilot programs to evaluate the effectiveness of disease management in Medi-Cal fee-for-service for seniors, and persons with disabilities and chronic conditions. DHCS is implementing two pilot Disease Management programs to test the concept under the Medi-Cal FFS delivery system. The contractors are at risk to ensure that the program results in no new cost to the State.

The first DM pilot project (commonly referred to as DM1) is currently operating in several Los Angeles County zip codes and all of Alameda County. McKesson Health Solutions was selected as the contracting entity to provide disease management services to Medi-Cal eligible members in August 2007.

DM1 will serve beneficiaries with the following chronic diseases:

- 1) Advanced Atherosclerotic Disease Syndrome
- 2) Congestive Heart Failure
- 3) Diabetes
- 4) Asthma
- 5) Coronary Artery Disease
- 6) Chronic Obstructive Pulmonary Disease

To date, McKesson has enrolled over 18,000 Medi-Cal members, 75 percent of the enrolled members live in Los Angeles County and 25 percent live in Alameda County. Currently 58 percent of all DM enrolled members are female and 42 percent are male. One preliminary statistic shows that out of 163 inbound calls seeking Emergency Room (ER) care, only 46 (28.22 percent) were found to truly need ER services. The other 71.78 percent of calls were re-directed to more appropriate, less intensive services, potentially saving Medi-Cal thousands of dollars in inappropriate ER services.

Similar preliminary analysis shows that out of 79 calls McKesson received, with the pre-intent to manage their care themselves, 17 (21.52 percent) were referred to ER services. With these preliminary statistics, we can begin to see that DM services can have a dramatic positive impact the health outcomes of our Medi-Cal FFS members. We will not have any cost savings analysis until we conduct the first year's reconciliation which should take place in September or October of 2008.

The second Disease Management pilot project (DM2) will be implemented statewide and will be available to approximately 5,000 eligible beneficiaries who have been diagnosed with HIV/AIDS and who elect to participate in the DM program. AIDS Healthcare Foundation (AHF) was the selected contractor for DM2 and plans to begin the operational phase of the pilot project this summer.

The University of California, Los Angeles, Center for Health Policy Research, will evaluate the outcomes of both DM1 and DM2.

CALIFORNIA CHILDREN'S SERVICES PROGRAM

- 13. *The Budget Act of 2007 included budget bill language requiring DHCS to work with constituency groups to resolve the issues regarding CCS children's lack of access to durable medical equipment and medical supplies. The governor vetoed this language saying DHCS is already doing this. What are you doing to address this problem in the CCS program?***

CCS currently serves approximately 175,000 children. Three quarters of these children are Medi-Cal eligible. DHCS continues to work with the CCS stakeholder community to provide the best health care available to one of the most vulnerable populations in the State: children with special health care needs. The program has implemented several quality improvement initiatives to improve the health outcomes of these vulnerable children. These initiatives include the neonatal quality improvement initiative, which has reduced blood stream infections by 29 percent in the first six months. Consequently, the initiative is now being expanded, in partnership with the California Children's Hospital Association, from 13 hospitals to 22 facilities. A second quality improvement initiative is a hearing screening related initiative in which the CCS Program is working to improve linkages for follow up on infants who fail to pass hearing screening.

Most recently, the Department and stakeholders have embarked on another important quality improvement initiative based on identifying problems with the timely discharge of CCS beneficiaries from an inpatient setting. The problems arise due to the complexities of accessing durable medical equipment (DME) and medical supplies. To this end, the Department, in conjunction with the Medi-Cal program, has taken steps to ensure that the State's most vulnerable children have access to these necessary services.

- In January 2007, DHCS provided guidance to CCS county offices and state regional offices to simplify and standardize (in conformance with Medi-Cal policy) requirements for authorization of supplemental oxygen.
- In January 2007, guidance was provided delegating previously centralized authority for authorization of ventilators for CCS children to county CCS programs. The requirements for authorization of ventilators were simplified and conformed to Medi-Cal requirements.
- Directed that the Department's fiscal agent make changes to the CCS claims adjudication system to eliminate the requirement for prior authorization of medical supplies and low cost DME for CCS children. This change will conform CCS procedures to Medi-Cal practice.
- Convened the CCS/Medi-Cal Stakeholder Workgroup. Several workgroup meetings have been held since the summer. Participants in the workgroup include DME and medical supply providers, the California Association of Medical Product Suppliers (CAMPS), the California Children's Hospital Association (CCHA), individual children's hospitals, Children's Specialty Care Coalition (CCS providers), California Association for Health Services at Home (CAHSAH), appointees of the CCS Executive Committee representing county CCS programs, State CCS, and Medi-Cal program staff.

The workgroup identified a set of issues and priority changes to improve the process. The Department is now working to implement these priority changes including:

- **CCS On-site Teams.** Development of on-site teams at CCS-approved tertiary hospitals that will provide inpatient authorizations so that they can be completed timely and consistently statewide. This should result in a decrease in hospital inpatient days, coordination of discharge planning, and integration of services between the hospitals and the county CCS programs and/or regional offices. The teams will provide services for all CCS children admitted in that facility regardless of county of residence.

The Department has facilitated the convening of sub-workgroup members to work on the on-site team development. Participants included representatives from county CCS programs, California Children's Hospital Association, four children's hospitals and one University of California Medical Center.

- **CCS Discharge Planning Service Code Grouping (SCG).** Complementing the CCS on-site team is the development of a single authorization for all DME supplies and home health agency services necessary for a CCS child's discharge from an inpatient hospitalization. Rather than requiring these various providers to individually request authorization for services from CCS, the inpatient hospital provider that discharges the child from the hospital can use a single authorization form, called a SCG, to request that a child receives DME, medical supplies and home health agency services. DHCS held a meeting on February 14, 2008, with the stakeholders to seek input on services to include on this SCG.
- **Clarification of CCS program policies.** The workgroup meetings revealed the need to clarify county responsibilities for authorizing services. Several stakeholders noted varying local approaches to authorizing services. CCS has taken the following steps to clarify policies:
 - Worked in conjunction with county program staff to conduct a review of a methodology that could ensure consistency between county CCS programs in determining eligibility and medical benefits.
 - Revised the CCS program policy on Inter-county Transfer Guidelines. These guidelines will ensure smoother transition of children between different county CCS programs, especially when they are seeking specialized hospital services that are only available in certain counties. The new policy was issued on December 31, 2007.

14. *What are you doing to improve the coordination between the Medi-Cal program and the county CCS programs to ensure a more seamless system for CCS children and their families?*

DHCS administers the CCS program in partnership with local county CCS programs. There have been a number of efforts by the Department to improve the interface of the CCS program with that of the Medi-Cal Program. One of the most significant recent efforts was the inclusion of the Children's Medical Services Program, which includes the California Children's Program (CCS), as part of the DHCS. This was effective as of July 1, 2007 with the creation of the

new Department of Public Health and the reorganization of the Department of Health Services. The inclusion of the Children's Medical Services program with the Department of Health Care Services will provide for a more coordinated interface relative to eligibility issues, benefit coverage issues, and interface with Medi-Cal managed care program requirements for delivery of health care to CCS children who may be enrolled in a managed care health plan.

The Department is also a participant in State/County quarterly meetings intended for the sole purpose of identifying operational issues that impact areas related to timeliness of eligibility determinations, service authorization processing, claims processing, etc. That is, the CCS program utilizes the infrastructure of the Medi-Cal program for these functions. Other interfaces with the Medi-Cal Program and CCS program include those described below.

Legislation enacted in 1995 required CCS to transition the processing of all provider claims for reimbursement to the State fiscal intermediary contractor by 1999. This was accomplished by completing the integration of CCS claims processing into the Medi-Cal claims processing system, the California Medicaid Management Information System (CA-MMIS).

- All CCS counties have completed the transition to CA-MMIS. CCS claims submission is in the same format and generally subject to the same requirements, audits, and edits as Medi-Cal claims.
- When necessary, Medi-Cal system edits, such as frequency limitations or restrictions of certain services to certain diagnoses, have been modified for application to CCS claims to meet the unique health care needs of CCS children.
- In 2004, a major enhancement to the CCS automated case management and eligibility system, the Children's Medical Services network (CMS Net), and of CA-MMIS was implemented. This enhancement provided for:
 - A statewide CCS master eligibility file integrated into the Medi-Cal Eligibility Data System (MEDS).
 - Electronic linkage of CCS eligibility to the claims processing system.
 - Generation of electronic services authorization requests (SARS) (analogous to Medi-Cal TARS) for CCS providers and electronic transmittal to the claims processing system.
 - Requirement for all CCS providers to be enrolled as Medi-Cal providers.
 - Electronic billing by providers for CCS services.
 - Transition of claims processing for CCS dental and orthodontic services to the Denti-Cal fiscal intermediary.

- Currently 56 county CCS programs participate in CMS Net. Sacramento County will join the system in the summer of 2008. Los Angeles County is scheduled to make the transition in early 2009. At that time CCS claims processing and eligibility will be fully integrated with Medi-Cal systems and will conform to Medi-Cal requirements with appropriate exceptions for the unique medical needs of CCS children.

These two significant changes that conform CCS with the Medi-Cal program, the CA-MMIS and CMS-Net enhancements, have enabled CCS providers to bill electronically, just as they do for Medi-Cal, which has resulted in improved claims processing. Similarly, counties have benefited from this enhancement by seeing reduced workload related to reviewing claims. Consequently, counties can redirect resources to activities which benefit CCS clients, such as case management activities. As indicated, clients benefit indirectly from the system enhancement because counties can devote greater resources to serving special needs children.

- CCS services have historically been carved out of Two Plan Model, Geographic Managed Care, and certain County Organized Health System Medi-Cal managed care health plans.
 - Providers of CCS services for enrollees in these plans reimbursed on fee-for-service basis.
 - Several of the COHSs have carved-in CCS services but CCS provides medical case management and authorizes services for CCS children enrolled in these plans.

CCS has used the new CMS-Net system to ensure that children are served by the two systems of care (CCS and managed care) receive coordinated care. CMS-Net contains the Provider Inquiry Process (PIP) which permits health plans, providers, and counties to electronically access the CMS-Net to identify services that have been authorized. This, in turn, gives providers assurance that payment has been approved for delivered services and increases provider confidence to continue to participate in the CCS Program and continue to service special needs children.

The State is also actively involved in quarterly meetings with county level CCS programs and the Healthy Families program to ensure uniformity in applying program requirements as they impact children who have a CCS eligible condition and who are enrolled as a health plan member under the Healthy Families program. The most recent meeting of this group was held on January 30, 2008.

CCS continues to work with the CCS community (county programs, families, pediatric specialists and hospitals), the Medi-Cal Managed Care Division, and the Managed Risk Medical Insurance Board to ensure the maintenance of California's regionalized system of specialized pediatric health care and the delivery of high quality specialty care to CCS children and their families.

DIVISION OF THE FORMER DEPARTMENT OF HEALTH SERVICES

15. *How has the transfer of public health programs out of the department affected the operation of programs under the renamed DHCS?*

The split of the departments has created a Department with much greater focus on health care delivery systems and allowed the Department to focus more directly on the critical items facing the Department. There has been no interruption of the work of the Department or interruption of the work done on joint projects and shared assignments between DHCS and the California Department of Public Health (CDPH). While there has been significant work required to separate the Departments, this work has been done behind the scenes in a manner that did not affect public service. This has included significant work by DHCS and CDPH to enter into formal Interagency Agreements to transfer these federal funds.

Under the new Department, the Department has been able to integrate the CCS program, the clinic programs, and other health care programs into the organizational structure that operates Medi-Cal. These programs now work better together under a more unified management structure. As many of the functions of the programs are the same, including drug purchasing, prior authorizations, and access to services, the programs can now better share resources and information.

DHCS has been able to create a more focused and efficient organization that is organizationally more responsive where decisions can be made and responsibility rests at a lower level in the organization. Managers in the Department are more focused on the functions of the Department and there is less competition for support resources than occurred with a combined Department.

Elmy A. Bermejo

March 11, 2008

The Honorable Don Perata
President Pro Tempore, CA State Senate
Attention: Nettie Sabelhaus
State Capitol
Sacramento, CA 95814

Dear Senator Perata,

Thank you for your letter to inform me about the date of my confirmation on April 16, 2008 as a member of the CA Commission on the Status of Women.

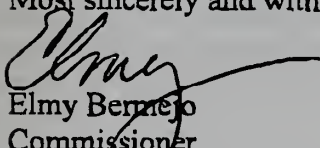
I have been enormously proud to serve as a member of this Commission for several years and thankful that when I was a member of your staff you valued my involvement in the Commission, an organization of great importance to women and girls in California.

My short term goal is the sustainability of the Commission on the Status of Women so that it continues its important work and focus. I am also specifically interested in looking more closely at the issues facing girls in the criminal justice system and seeking ways to help women and families who will be disproportionately impacted by deep cuts in this year's budget.

My long term goal is to produce a comprehensive study on the status of women and girls in California and to address the manner in which women and girls are portrayed in the media. As a result of my involvement in the community, and with non-profits, corporate and philanthropic entities, I am looking at realistic ways to do this and to form strong partnerships with other people and groups to carry this out.

I thank you profusely for this opportunity to serve California.

Most sincerely and with deep respect,


Elmy Bermejo
Commissioner
CA Commission on the Status of Women

*Nettie Sabelhaus or Miller
Shirley Elmy*

Senate Rules Committee

MAR 11 2008

Appointments TOTAL P.02

Senate Rules Committee Questions and Responses

By

Lindy DeKoven

California Commission on the Status of Women

Question 1: What are my short and long term goals for the commission in the coming years?

Through my continuing service on the commission, I have become better acquainted with – and gained a better understanding of – issues all women and girls in the state of California face. As a result, if I am confirmed, I hope to continue to participate in developing ways for government and the private sector to better serve their needs.

As Chairman of the Women's Commission, I recently discussed three specific immediate goals I'd like to achieve during my tenure. The first is the active participation of the entire Women's Commission. It's essential that the public and legislative members attend business meetings and engage in the work of the commission. Having an active and enthusiastic board can only help to better serve the women and girls in California. To ensure active participation, we will start by creating committees to help us focus on specific issues we want to address.

Second, I hope that the Women's Commission can become a valued commission, one that provides information and support to the Governor, his administration, and the legislature. Some of that information will be obtained through our upcoming public hearings which I believe are essential to fulfilling our commission goals. Other ways in which we can provide information is from presentations made to the commission, participating in events locally and statewide, and community outreach.

Third, it's essential that commissioners participate and engage with women and girls in their respective communities. This can be achieved by working with various city commissions throughout the state, with advocacy groups, and local politicians. It's important to meet the people we are representing on the commission, and see and hear what's going on in our own communities, so that we have a better understanding of the work we need to do on the state level.

With respect to long term goals, it's essential that we raise the profile of the commission, so that all women and girls know there is a commission to help them. They need to be aware that the commission is a vehicle through which all their voices can be heard. Once these voices are heard, then it will be the commission's responsibility to make sure the issues raised are brought to the attention of the members of the assembly and the state senate.

Senate Rules Committee

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Our most important work, and my greatest goal, is to provide hope and a voice for those who feel left behind, the disenfranchised of society who believe government can't and won't do anything for them. The Commission on the Status of Women should pay special attention to them and let them know the state of California cares about them, listens to them and works for them.

Question 2: Please include how you will accomplish these goals, and how you will measure your success.

We can accomplish these goals by working with state legislators and local politicians throughout the state. But we also want to work more closely with the Women's Legislative Caucus. The Women's Caucus and the Women's Commission have common goals. We want to support the legislators' efforts by breaking down barriers and building communication so that we can provide important and helpful information.

Recently, the Women's Commission met with members of the Women's Legislative Caucus and asked them to identify their priorities for the 2008 legislative session. Their priorities include diabetes, heart health, women in the military, and caregivers. Those priorities will become ours as well, and we will include and focus on those issues as part of our agenda. By communicating regularly, we ought to be able to assist in their efforts.

Previously, we held public hearings throughout the state. It was a chance for women to talk directly to their state government and know someone is listening who cares. We believe we were very successful with the data we collected, and created a handout which went to the entire legislature. Several of these issues have already been addressed in legislation. We plan to hold three more public hearings this summer in different cities to identify issues that affect women. With this much needed information, we should be able to offer new legislation and public policy on issues that may not have been addressed previously.

I hope to play a role in improving the effectiveness of the commission so legislators will not only attend our meetings but promote our work and be more invested in our agenda and goals. With the advice and support of elected officials, the commissioners can prioritize a realistic agenda for women and make great strides forward.

Our success will be measured by our results. We can't expect to accomplish all our goals, but we certainly can lay the groundwork. If we propose legislation and public policy that improves the lives of women and girls that might have come out of our public hearings, then we've accomplished a big part of what we set out to achieve. If we engage in a productive dialogue with the Women's Legislative Caucus, then we ought to have some success with our mutual priorities. And, if we can provide helpful support and



Appointment to the California Commission on the Status of Women
Daniel Zingale Statement

I am honored to have been appointed to the California Commission on the Status of Women. I am hoping to use my involvement with the California Women's Museum and the Governor and First Lady's Conference on Women as a means of contributing to the Commission's understanding of the needs of women and girls in California. I am particularly interested in issues related to women's health, and women as health advocates within families. Within the next couple of years, it is my hope that the Commission will identify and effectively advocate for the areas of greatest consequence to women within the context of comprehensive health care reform. I will be honored if the Senate confirms me for this appointment.

A handwritten signature in black ink that reads "Daniel Zingale".

DANIEL ZINGALE

Chief of Staff, Office of First Lady Maria Shriver

Senior Advisor, Office of Governor Arnold Schwarzenegger

Senate Rules Committee

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Appointments

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